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ABSTRACT

Compiled to provide a central reference point for all legislative information pertaining to libraries in the State of Texas, this publication includes all pertinent legislation as amended through the 71st Legislature, 1989, Regular Session. This update of the 1980 edition has been expanded to include statutes pertaining to the school and academic library communities, and to include laws pertaining to records and records management at the state and local levels. In addition to all laws in which the words "library," "librarian," "books," and "media" appear, it contains legislation of interest to the library community on such topics as discrimination, intergovernmental cooperation, liability of public employees, obscenity, open records, and public buildings and financing. Concurrent resolutions of the legislature and a summary of Texas Attorney General Opinions relating to libraries and public records are also included. The publication organizes the legislation information into the following broad codes: General; Insurance Code; Civil Practice and Remedies Code; Education Code; Election Code; Government Code; Human Resources Code; Local Government Code; Natural Resources Code; Penal Code; Property Code; Tax Code; and Miscellaneous. (MAB)

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LIBRARY OF THE REPUBLIC OF TEXAS
1839

Joint Resolution

Making an appropriation for the purchase of a Library for the Republic of Texas.

Resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the sum of ten thousand dollars be, and the same is hereby appropriated for the purpose of purchasing a Library for the use of the Government of Texas, and the Secretary of the Treasury is hereby required to issue the promissory notes of the Government to that amount; and the President is hereby authorized to draw for the same, and to purchase such books as in his judgement and circumstances most require; and said books shall be deposited in the office of the Secretary of State.

Approved, 24th January 1839
MIRABEAU B. LAMAR

JOHN M. HANSFORD
Speaker of the House of Representatives

DAVID G. BURNET
President of the Senate

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PREFACE

Purpose

The Texas State Library, Library Development Division, has published this new edition of *Library Laws of Texas* to provide a handy compilation of Texas statutes relating to libraries, current through the 71st Legislature, 1989, Regular Session. The last edition was published in 1980.

Scope

An effort has been made to include all laws in which the words "library," "books," "media," "Texas State Library," "Library and Archives Commission," and "director and librarian" appear in whatever form. In addition, the user will find legislation of interest to the library community on such topics as discrimination, intergovernmental cooperation, liability of public employees, obscenity, open records, and public buildings and financing. Concurrent resolutions of the legislature and a summary of Texas Attorney General Opinions relating to libraries and public records are also included.

This edition has been expanded to include statutes pertaining to the school and academic library communities, and to include laws pertaining to records and records management at the state and local levels. For more detailed information on records management, please contact the Records Management Division or the Local Records Division of the Texas State Library.

Editing

Lengthy statutes or those containing provisions lacking relevance to libraries are not fully reproduced. When one or more sections, subsections, or paragraphs have been omitted the text will be marked with asterisks (****), or with an elipsis (...) to show omissions within a paragraph. However, the reader should be aware that asterisks are not used to show text omitted prior to the first section or article quoted, as it is easy to determine that legislation beginning with section number 5 has had the first four sections omitted. Information added by the editor is enclosed within brackets ([ ]). The reader should always consult the full text to help determine if those portions omitted apply to the specific situation at hand.

Some legislation, e.g., Local Government Code, Chapter 194, provides that "...entities may continue to operate until June 1, 1990, under the following laws, as they existed immediately preceding September 1, 1989, and those laws are continued in force for this purpose...." Since June 1, 1990 has past, that statement and similar ones have been omitted from the printed text without further reference; also, the superseded laws are not included.

Recodification

The Texas State Legislature continues to recodify older statutes found in *Vernon's Annotated Civil Statutes*. The process involves repealing existing laws, replacing them with amended or new legislation, and reorganizing the body of laws into broad subject categories or codes, such as Education Code, Property Code, or Tax Code. A topic treated under one article in the old law might be treated under one chapter or section in the new or it might be divided among several chapters or sections. Thus, the reader will not always find a one-to-one correspondence between old and new statutes. Since 1980 the Government Code and Local Government Code have been created. Many of the familiar statutes involving the State Library, and county and city governments have been revised, renumbered and relocated.

Since the reorganization process is on-going not all older statutes have been revised and relocated. That is why the first chapter of this compilation contains laws in the older style format.

Legislative history

When the information was readily available, notations were added within brackets to show the original date a statute was passed and the date it was last amended. For example: [63rd Leg., 1973; Amended 71st Leg., 1989] means that the act was passed in 1973 by the 63rd Legislature and last amended in 1989 by the 71st Legislature. The notation does not reference any repealed law which might have preceded the current act. While this publication is current as of the Regular Legislative Session of 1989, the notations are provided as an additional aid to the reader.

Citations

The full text of all statutes in this publication may be found by consulting *Vernon's Annotated Civil Statutes* (VACS) or *Vernon's Texas Codes Annotated* (VTCA).

Responses

Your compiler welcomes assistance in keeping this publication up-to-date and complete. Please forward your comments, suggestions and list of statutes for inclusion in the next edition to the below address.

Acknowledgments

Grateful appreciation is extended to Tom Hayden, Texas Legislative Council, for arranging to have the major portion of these statutes downloaded from the Council's database; to Michael Heskett, Local Records Division, for providing machine-readable copies of recent legislation regarding local records and records management; to Kay Schlueter, State Law Library, for providing citations to attorney general decisions; and to Kay Easter, Library Development Division, for preparing the text for publication and for designing the cover and title page.

Disclaimer

Your compiler is not an attorney; the information provided is not intended as nor should it be used as a substitute for legal advice. Before acting on any of the topics presented, one should obtain legal advice by consulting an attorney.

Richard E. Getz
Library Development Division
Texas State Library
November 1990

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INTRODUCTION

(Edited from the 1980 Edition)

The first Texas legislation concerning libraries was a proclamation signed by President Mirabeau B. Lamar establishing a library for the Republic of Texas in 1839 [found on page iii]. Since that time, a large body of laws has been enacted by the legislative branch that affect not only what the State shall do but also what county and municipal governments can do.

For anyone interested in State government, this compilation provides an interesting survey of the changes in the legislative process. For example, the extremely permissive 1874 legislation [current version found in Local Government Code, Section 315.005] under which municipalities support libraries was introduced by Guy M. Bryan, who represented the area that included Galveston. A subscription library had been established there, and the city government wished to take over its support. This legislation was already in effect when Texas cities began to take advantage of Andrew Carnegie's offer to construct libraries in cities that would promise to support them.

Laws that deal with the State Library begin with the 1909 legislation [current version found in Government Code, Chapter 441] that created the Texas Library and Historical Commission (since 1979, the Texas State Library and Archives Commission) and thus made the State Library a separate agency.

Between 1839 and 1876, the Library was moved from place to place in state government. There were several significant events during this period, the most important of which was the separation of law library functions from the State Library in the 1850's. In 1869 Robert Josselyn, the State Librarian and former secretary to Confederate President Jefferson Davis, was considered important enough to be removed along with the governor as an impediment to Reconstruction.

Among the departments created at the end of Reconstruction and after approval of the Constitution of 1876 was the Department of Insurance, Statistics, and History. Although the first Commissioner, Valentine Overton King, may have owed his appointment to the fact that his son-in-law was a member of the legislature, King took action during his four-year term that profoundly affected the future of the Library. He persuaded the Secretary of State to turn over the records of Spanish and Mexican governments in Texas to his office, and he began--without much success--to try to persuade the legislature to buy books about Texas. He gave the personal collection that he began at this time to the State Library in 1905.

Although King's successors were both interested and competent, a fire destroyed the Capitol in 1881 and cut short progress. Not until after the present Capitol was completed did progress resume. The appointment of C.W. Raines as "historical clerk" in 1891 marked the first full-time appointment to carry out functions in the library-archives area.

The organization of the Texas State Historical Association in 1897 and the Texas Library Association in 1902 provided impetus for the creation of two commissions. The former wanted a historical commission. The latter wanted a library commission. Unable to gain approval for two commissions, the two groups joined forces in 1909 to support a single one. The legislation was introduced by Representative R.R. Smith, who was a member of neither group. Family tradition indicates that he worked at the Capitol while attending the University of Texas and became interested in the State Library as it functioned under Raines.

The original Commission included two ex-officio appointments--the State Superintendent of Public Instruction and the head of the University of Texas School of History--and three members appointed by the Governor for two-year terms. Following Governor James E. Ferguson's successful attempt to depose the State Librarian by appointing three members that would vote as he wished, legislation eliminated the two ex-officio appointments and specified that five members were to be appointed for six-year terms, with two expiring each biennium. In 1953 the membership was increased to six to conform to State law.

While the 1909 law creating the Library and Historical Commission was broad, enabling legislation, the major limitations on what the State Library could do resulted from limited budgets. Not, for example, until 1927 was the salary for a "Library Organizer" included in the budget. In the 1930's the Texas Library Association sought unsuccessfully to obtain state aid for public libraries. The State Library was equally unsuccessful in its attempts to gain approval for a new building to replace the cramped space it occupied in the Capitol.

During the 1950's several pieces of legislation affected the State Library. Responsibility for state publications was made more specific, and responsibility for semiactive state records was given to the State Library.

Transfer of responsibility for semiactive records of state government to the agency in 1953 represented the last major program added to the State Library. Although other responsibilities have been extended--as in the responsibility for public library development through the 1969 Library Systems Act and the responsibility for local records through the establishment of Regional Historical Resource Depositories in 1971--legislation since the 1950's has focused upon refinements to earlier legislation. That this is a continuing process is indicated by a number of amended or new acts in the 1980's controlling the preservation and management of local government records, assigning responsibility to the Texas State Library for certification of county librarians, and authorizing the Library and Archives Commission to aid and encourage development and cooperation among all types of libraries, including public, academic, special, and other libraries.

From general directives in 1909 telling the agency to encourage library development and to promote interest in Texas history has grown a substantial body of legislation that directs how the State Library is to carry out these directives.

In addition to the Texas State Library, the State also maintains the State Law Library and the Legislative Reference Library (a division of the Texas State Library until 1969). County law libraries also function under the direction of the State law. Just as the State Law Library has developed within the State court system, the county law libraries exist for county courts.

Although the libraries in state-supported colleges and universities and those in public schools receive State funds for operation, a limited body of legislation concerns these libraries. The Coordinating Board, College and University System has established formulas that are not a part of the legal code, and individual institutions request funds for library activities through their budget process. Texas public schools operate with both state and local funds, and decisions about libraries are generally made as part of the budget process. The Texas Education Agency administers state funds. In recent years, school librarians and media specialists have sought legislation that they feel will upgrade school library service and make it more uniform on a statewide basis. Although public, school, and academic library services are administered at the state level by three separate state agencies, the important fact about state legislation is that it does not forbid the kind of cooperative activity that has developed in recent years. The Library Systems Act spells out methods for contractual arrangements.

The legislation that affects libraries takes various forms. It may require them to do certain things, permit them to do others, and allow them to carry out functions if funds are appropriated. As conditions change, legislation also changes. This compilation reflects where libraries are as Texas enters the next decade.

Dorman H. Winfrey
Austin, Texas

For further information, see "A Survey of State Legislation on Texas Library Service," in *Texas Libraries*, V.41. no.1 (Spring 1979) p. 6-19.

GENERAL

Title 20. **PURCHASING AND GENERAL SERVICES COMMISSION.**
Chapter 1. **GENERAL PROVISIONS.**
Art. 601b. **State Purchasing and General Services Act.**
Article 5. **Building Construction Administration.**

Sec. 5.09. **Archives.** [66th Leg., 1979]

The commission may, in its discretion, provide for the storage and display of the archives of Texas.

Article 7. **Architectural Barriers.** [66th Leg., 1979; Amended 67th Leg., 1981]

Sec. 7.01. **Policy.**

The provisions of this article are to further the policy of the State of Texas to encourage and promote the rehabilitation of handicapped or disabled citizens and to eliminate, insofar as possible, unnecessary barriers encountered by aged, handicapped, or disabled persons, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Sec. 7.02. **Application.**

(a) The standards and specifications adopted under this article shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not contraindicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this article from any one of these funds or any combination thereof shall conform to each of the standards and specifications adopted under this article except where the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the commission. If it is determined that full compliance is not practicable, there shall be substantial compliance with the standard or specification to the maximum extent practical, and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

****

Sec. 7.03. **Scope.**

(a) This article is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(b) It is intended to make all buildings and facilities covered by this article accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Sec. 7.04. **Definitions.**

For the purpose of this article the following terms have the meanings as herein set forth:

(1) "Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs.

(2) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.

(3) "Sight disabilities" means total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.

(4) "Hearing disabilities" means deafness or hearing handicaps that might make an individual insecure in a public area because he is unable to communicate or hear warning signals.

(5) "Disabilities of coordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.

(6) "Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories.

Sec. 7.05. **Responsibilities for Enforcement.**

(a) The responsibility for administration and enforcement of this article shall reside primarily in the commission....

(b) The commission shall have all necessary powers to require compliance with its rules and regulations and modifications thereof and substitutions therefor, including powers to institute and prosecute proceedings in the district court to compel such compliance, and shall not be required to pay any entry or filing fee in connection with the institution of such proceedings. The commission or a handicapped person who seeks injunctive relief to obtain compliance with the rules and regulations shall first notify a person responsible for the building and allow that person 90 days to bring the building into compliance. The commission shall have the authority to extend the 90-day period when circumstances justify such extension.

(c) The commission is authorized to promulgate such rules and regulations as might reasonably be required to implement and enforce this article. The standards and specifications to be adopted by the commission under this article shall be consistent in effect to those adopted by the American National Standards Institute, Inc. (or its federally recognized successor in function), and the commission shall publish the standards and specifications in a readily accessible form for the use of interested parties.

(d) All plans and specifications for construction of buildings subject to the provisions of this article shall be submitted to the commission for review and approval prior to bidding and award of contract in accordance with rules and regulations adopted by the commission. Likewise, any substantial modification of approved plans shall be resubmitted to the commission for review and approval.

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(f) With respect to buildings and facilities that are under the jurisdiction and control of The University of Texas Board of Regents, the responsibility for administration and enforcement of this article shall reside in such governing board, and in the discharge of such responsibility the governing board shall have the same responsibilities, duties, powers, and authority that are herein imposed on and delegated to the commission with respect to all other buildings and facilities covered by this article.

Article 8. Property Accounting. [66th Leg., 1979; Amended 71st Leg., 1989]

Sec. 8.01. Property Accounting System.

(a) This article applies to personal property belonging to the state. All personal property belonging to the state shall be accounted for by the head of the agency that has possession of the property.

[*Note: At the time of printing this publication the statute contains two subsection (b)'s.*]

(b) The commission shall administer the property accounting system. The commission shall issue rules and regulations and a manual of instruction and prescribe such records, reports, and forms necessary to accomplish the objects of this article subject to review and comment by the state auditor. The state auditor is directed to cooperate with the commission in the exercise of the commission's rulemaking powers herein granted by giving technical assistance and advice.

(b) The commission shall administer the property accounting system and maintain a complete and accurate set of centralized records of state property based on information supplied by state agencies or the uniform statewide accounting system. The property accounting system shall, to the extent possible, constitute the fixed asset component of the uniform statewide accounting system. The commission shall coordinate with the comptroller in issuing rules, instructions, and necessary requirements for the property accounting system. The rules, instructions, and requirements must be consistent with the requirements of the uniform statewide accounting system.

(c) Where the commission finds that an agency has demonstrated its ability and competence to maintain complete and accurate detailed records of the property it possesses without the detailed supervision by the commission, it may direct that the detailed records be kept at the principal office of such agency. Where the commission issues such order, it shall keep only summary records of the property of such agency and the agency shall keep such detailed records as the commission directs and furnish the commission with such reports at such times as directed by the commission.

(d) Each agency head shall cause each item of state property possessed by his agency to be marked so as to identify it. The agency head shall follow the instructions issued by the commission in marking state property.

Sec. 8.02. Responsibility for Property Accounting.

(a) All state agencies shall comply with the provisions of this article and keep the property records required.

(b) All personal property owned by the state shall be accounted for by the agency that possesses the property. The commission shall by regulation define what is meant by personal property for the purposes of this article, but such definition shall not include nonconsumable personal property having a value of $500 or less per unit. In promulgating such regulations, the commission shall take into account the value of the property, its expected useful life, and if the cost of record keeping bears a reasonable relationship to the cost of the property on which records are kept. The commission shall consult with the state auditor in making such regulations and the auditor shall cooperate with the commission in the exercise of this rulemaking power by giving technical assistance and advice.

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Sec. 8.03. **Property Manager; Property Inventory.**

(a) Each agency head is responsible for the proper custody, care, maintenance, and safekeeping of the state property possessed by his agency.

(b) Each agency head shall designate either himself or one of his employees as property manager. The commission shall be informed in writing by the agency head of the name of the property manager and shall be informed of any changes. Where the commission finds that convenience and efficiency will be served, it may permit more than one property manager to be appointed by the agency head.

(c) The property manager shall maintain the required records on all property possessed by the agency and shall be the custodian of all such property.

(d) No person shall entrust state property to any state official or employee or to anyone else to be used for other than state purposes.

(e) When an agency's property is entrusted to some person other than the property manager, the property manager shall require a written receipt for such property executed by the person receiving custody of the property. When the possession of property of one agency is entrusted to another agency on loan, such transfer shall be done only when authorized in writing by the agency head who is lending such property and the written receipt shall be executed by the agency head who is borrowing such property. The property manager is relieved of the responsibility for property which is the subject of such a receipt.

(f) Each agency shall make a complete physical inventory of all property in its possession once a year. The inventory shall be taken on the date prescribed for the agency by the commission.

(g) The agency head shall forward a signed statement describing the method by which the inventory was verified, along with a copy of such inventory, within 45 days after the inventory date for the agency.

(h) The commission shall supervise the property records of each agency so that the records accurately reflect the property currently possessed by the agency. The commission shall prescribe the methods whereby items of property are deleted from the property records of the agency. Property that has become surplus or obsolete and no longer serviceable and has been turned over to the commission for disposal under the laws relating thereto shall be deleted from the records of that agency upon the authorization of the commission. Property that is missing from the agency or property that is disposed of directly by the agency in a legal manner shall be deleted from the commission's records upon the authorization of the state auditor.

Sec. 8.04. **Change of Property Managers.**

When there is a change in agency heads or property managers, the incoming agency head or property manager shall execute a receipt for all agency property accounted for to the outgoing agency head or property manager. A copy of such receipt shall be delivered to the commission, the state auditor, and the outgoing agency head or property manager. No further warrants in favor of the outgoing agency head or property manager shall be drawn or paid until the state auditor has certified that the agency property has been properly accounted for. The state auditor may make this certification without requiring that a physical inventory be taken.

Sec. 8.05. **Liability for Property Loss.**

Where agency property disappears, whether through theft or other cause, as a result of the failure of the agency head, property manager, or agency employee entrusted with the property in writing to exercise reasonable care for its safekeeping, such person shall be pecuniarily liable to the state for the loss thus sustained by the state. Where agency property deteriorates as a result of the failure of the agency head, property manager, or agency employee entrusted with the property in writing to exercise reasonable care to maintain and service the property, such person shall be pecuniarily liable to the state for the loss thus sustained by the state. Where agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee, such person shall be pecuniarily liable to the state for the loss thus sustained by the state. The liability prescribed by this section may be found to attach to more than one person in a particular instance; in such cases, the liability shall be joint and several.

Sec. 8.06. **Reporting to State Auditor.**

When any state property has been lost, destroyed, or damaged through the negligence or fault of any state official or employee, the agency head responsible for such property shall immediately report such loss, destruction, or damage to the state auditor. Upon learning in any manner of such property loss, destruction, or damage, the state auditor shall investigate the matter. If the investigation discloses that an injury has been sustained by the state through the fault of a state official or employee, the state auditor shall make written demand upon such state official or employee for reimbursement to the state for the loss so sustained.

Sec. 8.07. **Legal Action To Recover Monetary Loss of Property.**

In case the demand made by the state auditor for reimbursement for property loss, destruction, or damage is refused or disregarded by the state official or employee upon whom such demand is made, the state auditor shall report the facts to the attorney general. If, after an investigation of the facts, the attorney general finds that legal liability may be adjudged against the state official or employee, he shall take such legal action to recover the monetary loss of the state property occasioned by the loss, damage, or destruction as in his opinion may be deemed necessary. Venue for all such suits instituted against a state official or employee shall lie in the courts of appropriate jurisdiction of Travis County.

Sec. 8.08. **Failure To Keep Records.**

When any agency fails to keep the records required under the provisions of this article or fails to take the annual physical inventory, the commission shall so inform the comptroller and the comptroller may refuse to draw any warrants on behalf of such agency.

Sec. 8.09. **Transfer of Personal Property.**

(a) Any state agency is authorized to transfer any personal property of the state under its control or jurisdiction to any other state agency with or without reimbursement between the agencies.

(b) When any personal property under the control or jurisdiction of one state agency is transferred to the control or jurisdiction of any other state agency, such transfers shall be immediately and simultaneously reported to the commission by the transferor and the transferee on forms prescribed by the commission, and it shall adjust the inventory records of the agencies involved in making the transfer. Whenever any transfer is made with reimbursement from funds deposited in the state treasury, the transferee shall issue a voucher payable to the transferor, and the comptroller of public accounts shall issue warrants for reimbursement.

Sec. 8.10. **Distribution of This Article.**

Each agency head shall distribute a copy of this article to each official and employee of his agency and shall give a copy to each new employee of the agency.

Art. 601f. **Payments for Goods and Services Contracted for by State or Political Subdivision.**

Sec. 2. **Political Subdivisions; Time for Payments.** [69th Leg., 1985]

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(b) After September 1, 1987, a payment owed by a political subdivision based on a contract executed on or after September 1, 1987, is due not later than the 30th calendar day after the day on which the political subdivision received supplies, materials, or equipment, or the day on which the performance of services was completed or the day on which the political subdivision received the invoice for the supplies, materials, equipment, or services, whichever is later.

(c) Interest imposed under this Act on a political subdivision shall be paid automatically as payments become overdue. It shall be the responsibility of each political subdivision to calculate and pay interest automatically at the time that payment is made on the principal. Interest payments shall accompany payment of the net amount due for goods and services. Political subdivisions may not require a vendor to petition, invoice, bill, or wait any additional days to receive the interest due.

Sec. 3. **State Agencies; Time for Payments.** [69th Leg., 1985]

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(b) After September 1, 1987, a payment owed by a state agency based on a contract executed on or after September 1, 1987, is due not later than the 30th calendar day after the day on which the state agency received supplies, materials, or equipment, or the day on which the performance of services was completed or the day on which the state agency received the invoice for the supplies, materials, equipment, or services, whichever is later.

(c) If the warrant is not mailed within the applicable time period, the originating state agency is liable for any interest payment accruing under this Act.

(d) A claim for interest imposed under this Act on a state agency must be presented to the originating state agency, along with the envelope in which the warrant was received or other proof showing the date the payment was mailed or transmitted by the state agency, no later than six months after the payment was received by the vendor.

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Sec. 5. **Overdue Payments; Interest.** [69th Leg., 1985]

(a) If a payment is not made within the period specified in this Act, the payment is overdue and subject to interest.

(b) The interest imposed by this section accrues and is charged beginning on the day after the payment is due under this Act. The interest accrues at the rate of one percent per month. The interest ceases to accrue on the date that the payment is mailed by the vendor or the governmental entity. For purposes of this Act, a payment is considered mailed on the date the payment is postmarked or electronically transmitted to the vendor's financial institution.

(c) If partial payment is made within the period specified in this Act, the unpaid balance accrues interest as provided by this section unless the balance is in dispute in which case the provisions of Section 6 would prevail.

Sec. 6. **Disputed Payments.** [69th Leg., 1985]

(a) If a governmental entity believes that there is an error in an invoice submitted for payment, the governmental entity shall notify the vendor who submitted the invoice of the alleged error not later than the 21st day after the date on which the invoice is received.

(b) If the dispute is resolved in favor of the vendor who submitted the invoice, that vendor shall receive interest on all invoices for which payment has not been received within the applicable time period specified in Section 2 or Section 3, as applicable, of this Act from the date on which the payment first becomes overdue.

(c) If the dispute is resolved in favor of the governmental entity, the vendor who submitted the original invoice shall submit a corrected invoice and the corrected invoice shall be paid in accordance with Section 2 or Section 3 of this Act, as appropriate. If the corrected invoice is not paid by the appropriate date, interest accrues as provided by this Act.

Sec. 7. **Exceptions; Legislative Intent.** [69th Leg., 1985]

(a) This Act does not apply to payments made by a governmental entity or a vendor in the event:

(1) the terms of a contract specify other times and methods of payment or methods of resolving disputes or interest owed on delinquent payments; or

(2) there is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier concerning the supplies, materials, or equipment delivered or the services performed which causes the payment to be late; or

(3) the terms of a federal contract, grant, regulation, or statute prevent the governmental entity from making a timely payment with federal funds; or

(4) the invoice is not mailed to the addressee in strict accordance with instructions, if any, on the purchase order covering said payment.

(b) Nothing in this Act shall be construed to amend the provisions of Article 5160, Revised Statutes.

Sec. 8. **Early Payment Discounts.** [69th Leg., 1985]

It is the intent of the legislature that a governmental entity take advantage of early payment discounts when offered. However, no discount offered by a vendor shall be taken by a governmental entity unless full payment is made within the discount period. In the event a discount is taken later, interest shall accrue on the unpaid balance from the day the discount offer expired.

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Title 22. **BONDS – COUNTY, MUNICIPAL, ETC.**
Chapter 7. **MUNICIPAL BONDS.**
Art. 835m. **Municipal Libraries; Fire Stations; Validation of Bonds.** [53rd Leg., 1953]

Sec. 1. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of enlarging and improving a municipally owned and operated library building or constructing a new municipal library building, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions.... Such bonds, when approved by the Attorney-General of Texas and registered by the Comptroller of Public Accounts of Texas, and sold and delivered for not less than their par value plus accrued interest, shall be binding, legal, valid, and enforceable obligations of such city or town and shall be incontestable. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters whose property had been duly rendered for taxation voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such bonds or proceedings, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

Title 28. **CITIES, TOWNS AND VILLAGES.**
Chapter 20. **MISCELLANEOUS PROVISIONS.**
Art. 1269j-4.1. **Public Improvements in City, Town or Village; Bonds; Occupancy Tax.** [59th Leg., 1965; Amended 71st Leg., 1989]

Sec. 1. **Applicability of Act.**

In this Act, "city" means a home-rule city or a city, town, or village incorporated under general law.

Sec. 2. **Buildings, Structures, Parking Areas and Facilities; Leases.**

(a) Any such city is hereby authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), and golf courses, tennis courts, and other similar recreational facilities, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

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Sec. 3. **Revenue Bonds; Ordinance; Pledge of Revenues; Charges for Services; Leases.**

(a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries or other city buildings, either or all, and golf courses, tennis courts, and other similar recreational facilities, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of structures, parking areas or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities, as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such public improvements and facilities are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants, and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

(d) If any such city leases as lessee any one or more such public improvements, structures, parking areas or facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such public improvements, structures, parking areas or facilities.

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Sec. 4. **Payment of Principal or Interest on Bonds.**

The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on such bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

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Title 32. CORPORATIONS.
Chapter 1. TEXAS MISCELLANEOUS CORPORATION LAWS ACT.

Art. 1302-7.06. **Limitation of Liability.** [70th Leg., 1987; Amended 71st Leg., 1989]

A. In this article:

(1) "Articles of incorporation" means the articles of incorporation or association of a corporation, the charter of a corporation, or any other document required to incorporate or organize a corporation under the laws of this state.

(2) "Corporation" means:

(a) Any corporation, association, or other organization incorporated or organized under the...Texas Non-Profit Corporation Act (Article 1396–1.01 et seq., *Vernon's Texas Civil Statutes*)...or the Higher Education Authority Act, Chapter 53, Education Code;

(b) Any corporation, association, or other organization incorporated or organized under the laws of this state that is governed in whole or in part by...the Texas Non-Profit Corporation Act (Article 1396–1.01 et seq., *Vernon's Texas Civil Statutes*), or the Texas Miscellaneous Corporation Laws Act (Article 1302–1.01 et seq., *Vernon's Texas Civil Statutes*); or

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(3) "Director" means an individual who is a director or trustee of a corporation.

B. The articles of incorporation of a corporation may provide that a director of the corporation shall not be liable, or shall be liable only to the extent provided in the articles of incorporation, to the corporation or its shareholders or members for monetary damages for an act or omission in the director's capacity as a director, except that this article does not authorize the elimination or limitation of the liability of a director to the extent the director is found liable for:

(1) a breach of the director's duty of loyalty to the corporation or its shareholders or members;

(2) an act or omission not in good faith or that constitutes a breach of duty of the director to the corporation or an act of omission that involves intentional misconduct or a knowing violation of the law;

(3) a transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or

(4) an act or omission for which the liability of a director is expressly provided by an applicable statute.

Chapter 9. NON-PROFIT, COOPERATIVE, RELIGIOUS AND CHARITABLE.

1. Texas Non-Profit Corporation Act.

Art. 1396–2.01. **Purposes.** [56th Leg., 1959; Amended 71st Leg., 1989]

A. Except as hereinafter in this Article expressly excluded herefrom, non-profit corporations may be organized under this Act for any lawful purpose or purposes, which purposes shall be fully stated in the articles of incorporation. Such purpose or purposes may include, without being limited to, any one or more of the following: charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural and horticultural; and the conduct of professional, commercial, industrial, or trade associations; and animal husbandry. Subject to the provisions of Chapter 2, Title 83, of the *Revised Civil Statutes of Texas, 1925*, and of such Chapter or any part thereof as it may hereafter be amended, a corporation may be organized under this Act if any one or more of its purposes for the conduct of its affairs in this State is to organize laborers, working men, or wage earners to protect themselves in their various pursuits.

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Art. 1396–2.02. **General Powers.** [56th Leg., 1959; Amended 71st Leg., 1989]

A. Subject to the provisions of Sections B and C of this Article, each corporation shall have power:

(1) To have perpetual succession by its corporate name, unless a limited period of duration is stated in its articles of incorporation. Notwithstanding the articles of incorporation, the period of duration for any corporation incorporated before August 10, 1959, is perpetual if all fees and franchise taxes have been paid as provided by law.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by its proper officers.

(4) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, real or personal property, or any interest therein, wherever situated, as the purposes of the corporation shall require, or as shall be donated to it.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(6) To lend money to, and otherwise assist its employees and officers, but not its directors, if the loan or assistance may reasonably be expected to benefit, directly or indirectly, the corporation providing the assistance. Loans made to officers must be:

(a) made for the purpose of financing the principal residence of the officer, or

(b) made during the first year of that officer's employment, in which case the original principal amount may not exceed 100 percent of the officer's annual salary; or

(c) made in any subsequent year, in which case the original principal amount may not exceed 50 percent of the officer's annual salary.

(7) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, or municipality, or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have officers and exercise the powers granted by this Act in any state, territory, district, or possession of the United States, or any foreign country.

(11) To elect or appoint officers and agents of the corporation for such period of time as the corporation may determine and define their duties and fix their compensation.

(12) To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws of this State, for the administration and regulation of the affairs of the corporation.

(13) To make donations for the public welfare or for charitable, scientific, or educational purposes and in time of war to make donations in aid of war activities.

(14) To cease its corporate activities and terminate its existence by voluntary dissolution.

(15) Whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized.

(16) Any religious, charitable, educational, or eleemosynary institution organized under the laws of this State may acquire, own, hold, mortgage, and dispose of and invest its funds in real and personal property for the use and benefit and under the discretion of, and in trust for any convention, conference or association organized under the laws of this State or another state with which it is affiliated, or which elects its board of directors, or which controls it, in furtherance of the purposes of the member institution.

(17) To pay pensions and establish pension plans and pension trusts for all of, or class, or classes of its officer and employees, or its officers or its employees.

B. Nothing in this Article grants any authority to officers or directors of a corporation for the exercise of any of the foregoing powers, inconsistent with limitations on any of the same which may be expressly set forth in this Act or in the articles of incorporation or by-laws or in any other laws of this State. Authority of officers and directors to act beyond the scope of the purpose or purposes of a corporation is not granted by any provisions of this Article.

C. Nothing in this Article shall be deemed to authorize any action in violation of the Anti-Trust Laws of this State or of any of the provisions of Chapter 4 of Title 32 of *Revised Civil Statutes of Texas, 1925*, as now existing or hereafter amended.

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Art. 1396–2.05. **Registered Office and Registered Agent.** [56th Leg., 1959; Amended 66th Leg., 1979]

A. Each corporation shall have and continuously maintain in this State:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be an individual resident in this State whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or to conduct its affairs in this State which has a principal or business office identical with such registered office.

B. On or before the 15th day of November, 1961, each not for profit corporation organized under the laws of this State prior to the effective date of this Act shall designate its registered office and appoint its registered agent by filing in the office of the Secretary of State a statement setting forth:

(1) The name of the corporation.

(2) The street address of its registered office.

(3) The name of its registered agent.

(4) The street address of its registered agent.

(5) That the street address of its registered office and the street address of its registered agent are the same.

(6) That such designation and appointment were authorized by resolution duly adopted by its board of directors or, if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members.

C. The statement required by this Article shall be executed by the corporation by its president or a vice-president, and verified by him. The original and a copy of the statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall, when all fees have been paid as prescribed by law:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Deliver the copy to the corporation or its representative.

D. Upon such filing the designation of the registered office and the appointment of the registered agent shall become effective.

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Art. 1396–2.08. **Members.** [56th Leg., 1959; Amended 57th Leg., 1961]

A. A corporation may have one or more classes of members or may have no members.

B. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment, and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or by-laws.

C. If the corporation is to have no members, that fact shall be set forth in the articles of incorporation.

D. A corporation may issue certificates, or cards, or other instruments evidencing membership rights, voting rights or ownership rights as may be authorized in the articles of incorporation or in the by-laws.

E. The members of a non-profit corporation shall not be personally liable for the debts, liabilities, or obligations of the corporation.

Art. 1396–2.09. **By-Laws.**

A. The initial by-laws of a corporation shall be adopted by its board of directors or, if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members. The power to alter, amend, or repeal the by-laws or to adopt new by-laws shall be vested in the members, if any, but such power may be delegated by the members to the board of directors. In the event the corporation has no members, the power to alter, amend, or repeal the by-laws or to adopt new by-laws shall be vested in the board of directors. The by-laws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or with the articles of incorporation.

Art. 1396–2.10. **Meetings Of Members.**

A. If a corporation has members:

(1) Meetings of members shall be held at such place, either within or without this State, as may be provided in the by-laws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this State.

(2) An annual meeting of the members shall be held at such times as may be provided in the by-laws, except that where the by-laws of a corporation provide for more than one regular meeting of members each year, an annual meeting shall not be required, and directors may be elected at such meetings as the by-laws may provide. Failure to hold the annual meeting at the designated time shall not work a dissolution of the corporation. In the event the board of directors fails to call the annual meeting at the designated time, any member may make demand that such meeting be held within a reasonable time, such demand to be made in writing by registered mail directed to any officer of the corporation. If the annual meeting of members is not called within sixty (60) days following such demand, any member may compel the holding of such annual meeting by legal action directed against said board, and all of the extraordinary writs of common law and of courts of equity shall be available to such member to compel the holding of such annual meeting. Each and every member is hereby declared to have a justiciable interest sufficient to enable him to institute and prosecute such legal proceedings.

(3) Special meetings of the members may be called by the president, the board of directors, by members having not less than one-tenth (1/10) of the votes entitled to be cast at such meeting, or such other officers or persons as may be provided in the articles of incorporation or by-laws.

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Art. 1396–2.14. **Board of Directors or Trustees.** [56th Leg., 1959; Amended 60th Leg., 1969]

A. The affairs of a corporation shall be managed by a board of directors, or trustees. Directors or trustees need not be residents of this State or members of the corporation unless the articles of incorporation or the by-laws so require. The articles of incorporation or the by-laws may prescribe other qualifications for directors or trustees.

B. Boards of directors or trustees of religious, charitable, educational, or eleemosynary institutions may be affiliated with, elected and controlled by a convention, conference or association organized under the laws of this State or another state, whether incorporated or unincorporated, whose membership is composed of representatives, delegates, or messengers from any church or other religious association.

C. The articles of incorporation of a church may vest the management of the affairs of the corporation in its members. If the church has a board of directors or similar body, it may limit the authority of such board to whatever extent as may be set forth in the articles of incorporation or by-laws. A church organized and operating under a congregational system and incorporated prior to the effective date of this Act shall be deemed to have vested the management of the affairs of the corporation in its members in the absence of an express provision to the contrary in the articles of incorporation or the by-laws.

D. In the case of a corporation which is a church, the Board may be designated by any name appropriate to the customs, usages, or tenets of the church.

E. The board of directors or trustees of a non-profit corporation may be elected (in whole or in part) by another non-profit corporation or corporations, domestic or foreign, if (1) the articles of incorporation or the bylaws of the former corporation so provide, and (2) the former has no members with voting rights.

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Art. 1396–2.20. **Officers.**

A. The officers of a corporation shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three (3) years as may be prescribed in the articles of incorporation or the by-laws. In the absence of any such provisions, all officers shall be elected or appointed annually by the board of directors, or, if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members. Any two or more offices may be held by the same person, except the offices of president and secretary. A committee duly designated may perform the functions of any officer and the functions of any two or more officers may be performed by a single committee, including the functions of both president and secretary.

B. The articles of incorporation or the by-laws may provide that any one or more officers of the corporation shall be ex-officio members of the board of directors.

C. The officers of a corporation may be designated by such other or additional titles as may be provided in the articles of incorporation or the by-laws.

D. In the case of a corporation which is a church, it shall not be necessary that there be officers as provided herein, but such duties and responsibilities may be vested in the board of trustees or other designated body in any manner provided for in the articles of incorporation or the by-laws.

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Art. 1396–3.01. **Incorporators.** [56th Leg., 1959; Amended 70th Leg., 1987]

A. Any natural person of the age of eighteen (18) years or more without regard to the person's place of residence or domicile may act as an incorporator of a corporation by signing the articles of incorporation for such corporation and delivering the original and a copy of the articles of incorporation to the Secretary of State.

B. Any religious society, charitable, benevolent, literary, or social association, or church may incorporate under this Act with the consent of a majority of its members, who shall authorize the incorporators to execute the articles of incorporation.

Art. 1396–3.02. **Articles of Incorporation.** [56th Leg., 1959; Amended 59th Leg., 1965]

A. The articles of incorporation shall set forth:

(1) The name of the corporation.

(2) A statement that the corporation is a non-profit corporation.

(3) The period of duration, which may be perpetual.

(4) The purpose or purposes for which the corporation is organized.

(5) If the corporation is to have no members, a statement to that effect.

(6) If the corporation is a church and the management of its affairs is to be vested in its members pursuant to Article 2.14C of this Act, a statement to that effect.

(7) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the bylaws, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(8) The street address of its initial registered office and the name of its initial registered agent at such street address.

(9) The number of directors or trustees constituting the initial board of directors or trustees, and the names and addresses of the persons who are to serve as the initial directors or trustees. A church vesting management of its affairs in its members pursuant to Article 2.14C of this Act may, in lieu of providing for a board of directors or trustees, set forth in the articles of incorporation the officers or other body designated pursuant to Article 2.20D of this Act.

(10) The name and street address of each incorporator.

B. Provided that charters or articles of incorporation of corporations existing on the effective date of this Act which do not contain one or more of the requirements listed in the foregoing Section need not be amended for the purpose of meeting such requirements. Any subsequent amendment or restatement of the articles of incorporation of such corporation shall include such requirements, except that it shall not be necessary, in such amended or restated articles, to include the information required in Subsections (8), (9), and (10) of Section A.

C. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

D. Unless the articles of incorporation provide that a change in the number of directors or trustees shall be made only by amendment to the articles of incorporation, a change in the number of directors or trustees made by amendment to the by-laws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a by-law, the provision of the articles of incorporation shall be controlling.

Art. 1396–3.03. **Filing of Articles of Incorporation.** [56th Leg., 1959; Amended 66th Leg., 1979]

A. The original and a copy of the articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of incorporation conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of incorporation to which he shall affix the copy.

B. The certificate of incorporation, together with the copy of the articles of incorporation affixed thereto by the Secretary of State shall be delivered to the incorporators or their representatives.

Art. 1396–3.04. **Effect of Issuance of Certificate of Incorporation.**

A. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with, and that the corporation has been incorporated under this Act, except as against the State in a proceeding for involuntary dissolution.

Art. 1396–3.05. **Organization Meeting.**

A. After the issuance of the certificate of incorporation, an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this State, at the call of a majority of the incorporators, for the purpose of adopting by-laws, electing officers, and for such other purposes as may come before the meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each director named in the articles of incorporation, which notice shall state the time and place of the meeting.

B. A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three (3) days' notice, for such purposes as shall be stated in the notice of the meeting.

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Art. 1396–6.01. **Voluntary Dissolution.**

A. A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting in person or by proxy are entitled to cast, unless any class of members is entitled to vote as a class thereon by the terms of the articles of incorporation or of the by-laws, in which event the resolution shall not be adopted unless it also receives at least two-thirds of the votes which members of each such class who are present at such meeting in person or by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

(3) Where the management of the affairs of the corporation is vested in the members pursuant to Article 2.14C of this Act, a resolution that the corporation be dissolved shall be submitted to a vote at a meeting of members, which may be an annual, a regular, or a special meeting. Except as otherwise provided in the articles of incorporation or the by-laws, notice stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation shall be given to the members, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes of members present at such meeting.

B. Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of and claimant against the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this Act.

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Title 35. **COUNTY LIBRARIES. 1. County Free Libraries.**

Art. 1696a. **Acquisition of Land; Construction, Repair, Equipment and Improvement of Buildings; Bond Issues; Taxes.** [54th Leg., 1955]

Sec. 1. The Commissioners Court of any county in this State is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings, and other permanent improvements to be used for county library purposes. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such buildings and repairs and improvements and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, *Revised Civil Statutes of Texas, 1925,* as amended, governing the issuance of bonds by cities, towns, and/or counties in this State.

Art. 1696b. **Issuance of Bonds for Public Library.** [68th Leg., 1983]

Sec. 1. **Issuance of Bonds.**

The commissioners court of a county by order may authorize the issuance and sale of negotiable bonds in the name of the county to finance in whole or part the purchase or acquisition by any other method, construction, improvement, enlargement, equipment, or repair of a public library building.

Sec. 2. **Manner of Repayment of Bonds.**

(a) The commissioners court shall provide for the payment of the principal of and interest on the bonds by pledging all or any part of designated revenues from the operation of the library building or from the lease of space in the building.

(b) The commissioners court shall charge rent for the lease of space in the library building and shall establish fees in connection with the operation of the building to provide sufficient revenue to pay all expenses related to the ownership and operation of the building, including the expense of paying the principal of and interest on the bonds and the expense of creating and maintaining any required bond reserve funds.

(c) The owners of the bonds do not have any right to demand payment of the principal of and interest on the bonds out of any funds raised by taxation.

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Title 61. **FEES OF OFFICE.**

Chapter 2. **ENUMERATION.**

Art. 3913. **Certain State Officers.** [1848; Amended 59th Leg., 1965]

The Secretary of State, Land Commissioner, Comptroller, State Treasurer, Commissioner of Agriculture, Banking Commissioner, State Librarian, and the Attorney General, shall furnish to any person who may apply for the same a copy of any paper, document or record in their respective offices, or with a certificate under seal, certifying to any fact or facts contained in the papers, documents or records of their offices unless such paper, document or record is deemed by Statute to be confidential or privileged; provided neither of said officers shall demand nor collect any fee from any officer of the state for copies of any papers, documents or records in their offices, or for any certificate in relation to any matter in their offices, when such copies are required in the performance of any of the official duties of such office.

Each of said officers, and all other officers of the state and heads of state departments hereinafter required to collect fees enumerated below, shall deposit all fees received for any service named in this Article in the State Treasury to the credit of the General Revenue Fund, provided, however, that the Banking Commissioner shall deposit such fees received in the manner provided by Section 8 of Chapter 139, *Acts of the 52nd Legislature, 1951,* and provided further, that the Texas Employment Commission shall deposit such fees in accordance with Federal law, and provided further, that any fees collected under this Article by the State Librarian shall be retained by the Texas Library and Historical Commission.

Each officer named above and all other officers of the state and heads of state departments shall cause to be collected the following fees for the services mentioned, except as otherwise provided by law:

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices, in the English language, for each page or fraction thereof, One Dollar and Fifty Cents ($1.50);

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices in any other language than the English, for each page or fraction thereof, Two Dollars ($2);

For each translated copy of any paper, document or record in their offices, Three Cents (3¢) per word, provided that no charge shall be less than Five Dollars ($5);

For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be determined with reference to the amount of labor, supplies and materials required;

For each copy by photostatic or other photo process, One Dollar ($1) per page, provided that the State Librarian may charge a fee for this service in an amount to be determined by the Library and Historical Commission with reference to the amount of labor, supplies and materials required;

For examination or search of records in their offices when the state or any county has no interest, for each one-half (1/2) hour or fraction of one-half (1/2) hour spent in such examination or search, One Dollar ($1).

For each sealed certificate affixed to any of the above, One Dollar ($1).

Title 70.	**HEADS OF DEPARTMENTS.**
Chapter 4A.	**STATE AUDITOR.**
Art. 4413b.	**Regulation of Style and Format of Agency Periodic Reports to Governor or Legislature.** [65th Leg., 1977]

Sec. 1. In this Act, "agency" means a department, board, commission, office, or other entity in the executive, legislative, or judicial branch of state government, and includes a public university, senior college, or junior college.

Sec. 2. The state auditor shall promulgate and distribute rules prescribing the style and format of all periodic reports that agencies are required by law to make to the governor, the legislature, or any officer, committee, or agency of the legislature. The rules shall include restrictions on the quality or price of paper used, style or method of printing or typesetting, binding, illustrations, photographs and other matters relevant to the cost of producing the reports, with the objective of minimizing the cost of the reports without impairing the ability of agencies to make effective reports.

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Sec. 3. In making periodic reports referred to in Section 2 of this Act, each agency shall comply with the rules promulgated by the state auditor, and the comptroller shall refuse to issue a warrant to pay any expense incurred by an agency in violation of the rules.

Chapter 7. INTERGOVERNMENTAL COOPERATION.

Art. 4413(32c). **Interlocal Cooperation Act.** [62nd Leg., 1971; Amended 71st Leg., 1989]

Sec. 1. **Purpose.**

It is the purpose of this Act to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level including contracts between counties and cities, between and among counties, between and among cities, between and among school districts, and between and among counties, cities, school districts, and other political subdivisions of the state, and agencies of the state.

Sec. 2. **Short title.**

This Act may be cited as The Interlocal Cooperation Act.

Sec. 3. **Definitions.** [Amended 71st Leg., 1989]

As used in this Act:

(1) "Local government" means a county; a home rule city or a city, village, or town organized under the general laws of this state; a special district; a school district; a junior college district; any other legally constituted political subdivision of the State of Texas or any adjoining state; or a combination of political subdivisions.

(2) "Governmental functions and services" means all or part of any function or service included within the following general areas: police protection and detention services; fire protection; streets, roads, and drainage; public health and welfare; parks; recreation; library services; museum services; records center services; waste disposal; planning; engineering; administrative functions; public funds investment; and such other governmental functions which are of mutual concern to the contracting parties.

(3) "Administrative functions" means functions normally associated with the routine operation of government such as tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing.

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Sec. 4. **Authority To Make Interlocal Contracts and Agreements.** [Amended 71st Leg., 1989]

(a) Any local government may contract or agree with one or more local governments to perform governmental functions and services under terms of this Act.

(b) The agreements or contracts may be for the purpose of studying the feasibility of contractual performance of any governmental functions or services or may be for the performance of any governmental functions or services which all parties to the contract are legally authorized to perform, provided such contracts or agreements shall be duly authorized by the governing body of each party to the contract or agreement. An interlocal contract or agreement shall state the purpose, terms, rights, objectives, duties, and responsibilities of the contracting parties. Interlocal contracts and agreements may be renewed annually and shall specify that the party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party. The payments must be in amounts that fairly compensate the performing party for the services or functions performed.

(c) The authority of a political subdivision to perform a contractual service includes the authority to apply the rules, regulations, and ordinances of either the subdivision receiving the service or of the subdivision providing the service, whichever standard may be agreed upon by the contracting political subdivisions.

(d) The contracting parties to any interlocal contract or agreement shall have full authority to create an administrative agency or designate an existing political subdivision for the supervision of performance of an interlocal contract or agreement and any administrative agency so created or political subdivision so designated shall have the authority to employ personnel and engage in other administrative activities and provide other administrative services necessary to execute the terms of any interlocal contract or agreement. For purposes of this Act any body politic and corporate organized under the laws of this state shall be considered a political subdivision.

(e) The contracting parties to any interlocal contract or agreement shall have full authority to contract with state departments and agencies as defined in Article 4413(32), *Vernon's Texas Civil Statutes*, or any similar department or agency of an adjoining state....

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(i) To conserve and coordinate the use of public funds, local governments may enter into agreements for cooperative purchase of goods and services between and among themselves and with the state, including cooperative agreements with the State Purchasing and General Services Commission.

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[*Note: At the time of printing this publication the statute contains two Section 5B's, one of which is used here.*]

Sec. 5B. **Regional Records Centers.** [71st Leg., 1989]

(a) By resolution of the governing body, a political subdivision of the state may contract with other political subdivisions of the state to participate in the ownership, construction, and operation of a regional records center.

(b) Prior to the acquisition and construction of a regional records center, bonds to finance the acquisition and construction of the records center may be issued by the participating subdivisions in the manner prescribed by law for issuance of permanent improvement bonds.

(c) A regional records center established under this section may not be used for the storage of a record whose retention period is listed as permanent on a records retention schedule issued by the Texas State Library and Archives Commission as provided by Section 441.158, Government Code, unless the center meets standards set out in rules adopted by the commission under Section 203.048, Local Government Code, for the care and storage of records of permanent value.

(d) The Texas State Library and Archives Commission shall provide assistance and advice to local governments in the establishment and design of regional records centers.

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Chapter 8. PUBLICATIONS OF EXECUTIVE DEPARTMENTS AND STATE AGENCIES.

Art. 4413(33). **Charge for Sale of Publications of Executive Departments and State Agencies.** [55th Leg., 1957]

Sec. 1. Any department or agency in the executive branch of the state government may, unless otherwise specifically directed by statute, set and collect a sales charge for publications and other printed matter when such charges are deemed to be in the public interest.

Sec. 2. In any instances where the amounts of such sales charges are not specifically set by statute, the charge authorized by this Act shall not be greater than an amount deemed sufficient by the publishing department or agency in the executive branch, to reasonably reimburse the state for the actual expense of printing such publications or printed matter.

Sec. 3. Money collected from the charges authorized by this Act shall be deposited in the fund from which the costs of printing the respective publications or materials were originally paid, and such moneys shall be subject to appropriation by the Legislature.

Sec. 4. Nothing in this Act shall be construed as amending or repealing existing laws respecting what publications or materials may be printed by the respective departments or agencies in the executive branch of the government of this state; or as altering the amounts of charges to be made for publications or printed materials specifically set forth in other statutes.

Sec. 5. Pursuant to the principle set forth in Article 16, Section 21, of the Constitution of Texas, no official or employee of the state government may, directly or indirectly, profit by or have any pecuniary interest in the preparation, printing or duplication, or sale, of publications and other printed matter issued by the respective departments or agencies in the executive branch of the government. Any official or employee who violates the provisions of this section shall be dismissed from state employment.

Art. 4413(33a). **Distribution of State Agency Publications.** [66th Leg., 1979]

Sec. 4. **Definitions.**

In this Act:

(1) "Person" means an individual, association, or corporation.

(2) "Publication" means printed matter containing news or other information. It includes magazines, newsletters, newspapers, pamphlets, and reports.

(3) "State agency" means any department, commission, board, office, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of the state.

Sec. 5. **Publication Request Forms.**

(a) Each state agency that distributes publications to any person or other state agency shall distribute a publication request form on request or with each copy of the last publication that it distributes before January 1 of each year.

(b) The publication request form provides a means of requesting a state agency's publications.

(c) The comptroller of public accounts shall have the publication request forms printed and shall furnish the forms to each state agency that distributes publications. The comptroller shall furnish the forms in sufficient quantities to enable each state agency annually to distribute a form to each person or state agency that receives a publication.

Sec. 6. **Publication Distribution List.**

(a) If a state agency receives a completed publication request form or a written request for its publications, the agency may place the name of the requestor on its publication distribution list.

(b) A state agency shall compile a distribution list after January 1 of each year from the forms and written requests received for publications for that calendar year.

(c) A state agency may not place the name of a person, state agency, or other entity on the publication distribution list unless the distributing agency has received a completed publication request form or a written request for publications from that person, state agency, or other entity.

Sec. 7. **Distribution of Publications.**

Except as provided by Section 5 of this Act, a state agency may not distribute a publication to a person, state agency, or other entity unless the name of the person, agency, or entity appears on the distributing agency's publication distribution list.

Sec. 8. **Distribution to Those Not on the List.**

(a) A state agency may distribute a copy of a publication to a person, state agency, or other entity that is not listed on the publication distribution list if the person, agency, or entity:

(1) has orally or in writing requested a specific copy of a publication prior to or after this Act; or

(2) is a newly elected or appointed state officer, newly appointed executive head of a state agency, or newly established state agency.

(b) A state agency shall send to the Legislative Reference Library five copies of each publication that it distributes. The library shall make available to its users the publications of each state agency.

Sec. 9. **Filing the Publication Request List.**

Before March 1 of each year, each state agency that distributes publications shall file a copy of its publication distribution list with the comptroller of public accounts. When filed, the lists are public information.

Sec. 10. Sections 4 through 9 of this Act do not apply to the distribution of information that is required by law.

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Art. 4413(33b). State Agency Publications; Distribution to Members of Legislature; Use of Recycled Paper. [70th Leg., 1987]

Sec. 1. **Definition.**

In this Act, "state agency" means:

(1) a department, commission, board, office, or other agency in the executive branch of state government created by the constitution or a statute of this state;

(2) a university system or institution of higher education as defined by Section 61.003, Education Code; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council.

Sec. 2. **Notification Requirement.**

(a) In order to avoid waste in the duplication and distribution of state agency reports and other publications, each state agency that issues publications relating to the work of that agency and that distributes the publications to members of the legislature shall, except for reports required by law, send a written notice to each member before mailing or otherwise distributing the publication to determine whether or not that member wishes to receive the publication. The agency shall include with the notice to each member a brief written summary that describes each publication.

(b) A member who wishes to receive the state agency publication shall notify the agency.

Sec. 3. **Recycled Paper.**

A state agency that issues reports or other publications for general distribution, including distribution to members of the legislature, shall use recycled paper to produce those publications when cost-effective to the greatest extent possible.

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Title 71. **HEALTH – PUBLIC.**
Chapter 1. **HEALTH BOARDS AND LAWS.**
Art. 4414b – 1. **Center for Rural Health Initiatives.** [71st Leg., 1989]

Sec. 4.

(a) The center shall:

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(8) work with state agencies, universities, and private interest groups to conduct and promote research on rural health issues, maintain and collect a timely data base, and develop and maintain a rural health resource library;

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Chapter 6. **MEDICINE.**
Art. 4495b. **Medical Practice Act.** [67th Leg., 1981; Amended 70th Leg., 1987]
Subchapter B. **Board of Medical Examiners.**

Sec. 2.09. **Powers and Duties of Board.**

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(p) The board shall disseminate at least twice a year and at other times determined necessary by the board information as is of significant interest to the physicians in Texas. The information must include summaries of disciplinary orders made against physicians licensed in this state, board activities and functions, pertinent changes in this Act or board rules and regulations, and attorney general opinions. The requirements of this section are in addition to the reporting requirements imposed under Section 4.14 of this Act. The board shall disseminate the information:

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(5) to public libraries throughout the state.

(q) The board shall prepare the following:

(1) an alphabetical listing of the names of the licensees;

(2) an alphabetical listing of the names of the licensees by the county in which the licensee's principal place of practice is located;

(3) a summary of the board's functions;

(4) a copy of this Act and a listing of other laws relating to the practice of medicine;

(5) a copy of the board's rules; and

(6) other information considered appropriate by the board.

(r) The board on request shall distribute a copy of information prepared under Subsection (q) of this section to the requesting person. The board shall distribute on request copies of the information to the public libraries in this state.

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Chapter 10. **OPTOMETRY.**

Article 2. **TEXAS OPTOMETRY BOARD.**

Art. 4552-2.15. **Disposition of Fees.** [61th Leg., 1969; Amended 71st Leg., 1989]

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(b) The funds realized from annual renewal fees shall be distributed as follows: $10 of each renewal fee collected by the board shall be dedicated to the University of Houston Development Fund. The license money placed in the development fund pursuant hereto shall be utilized solely for scholarships and improvements in the physical facilities, including library, of the School of Optometry.

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Title 83. **LABOR.**

Chapter 16. **MISCELLANEOUS PROVISIONS.**

Art. 5221k. **Commission on Human Rights Act.** [68th Leg., 1983; Amended 71th Leg., 1989]

Sec. 1.01. **Short Title.**

This Act may be cited as the Commission on Human Rights Act.

Sec. 1.02. **Purposes.**

The general purposes of this Act are:

(1) to provide for the execution of the policies embodied in Title VII of the federal Civil Rights Act of 1964, as amended (42 U.S.C. Section 2000e et seq.), and to create an authority that meets the criteria under 42 U.S.C. Section 2000e-5(c) and 29 U.S.C. Section 633; and

(2) to secure for persons within the state, including disabled persons, freedom from discrimination in certain transactions concerning employment, and thereby to protect the personal dignity of persons within the state; and to make available to the state the full productive capacities of those persons, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of persons within the state.

Sec. 1.03. **General Rule of Construction.**

This Act shall be construed according to the fair import of its terms.

Sec. 1.04. **Specific Rules of Construction.**

(a) Except as provided for in Section 5.04 of this Act, "because of age" or "on the basis of age" refers only to discrimination because of age or on the basis of age against an individual 40 years of age or older. Nothing in this Act prohibits the compulsory retirement of any employee who has attained 65 years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if the employee is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of plans, of the employer of the employee, that equals, in the aggregate, at least $27,000.

(b) In Article 5, "because of disability" or "on the basis of disability" refers to discrimination because of or on the basis of a physical or mental condition that does not impair an individual's ability to reasonably perform a job.

(c) In this Act, "because of sex" or "on the basis of sex" includes but is not limited to discrimination because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other individuals not so affected but similar in their ability or inability to work. An employer is not required by this Act to pay for health insurance benefits for abortion, except if the life of the mother would be endangered were the fetus carried to term. This Act does not preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

Sec. 2.01. **Definitions.**

In this Act, unless the context otherwise requires:

(1) "Bona fide occupational qualification" means a qualification:

(A) that is reasonably related to the satisfactory performance of the duties of a job; and

(B) for which there is a factual basis for believing that no person of the excluded group would be able to perform satisfactorily the duties of the job with safety or efficiency.

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(4) "Disability" means a mental or physical impairment that substantially limits at least one major life activity or a record of such a mental or physical impairment. The term does not include:

(A) a person with a current condition of addiction to the use of alcohol or any drug or illegal or federally controlled substance; or

(B) a person with a currently communicable disease or infection, including but not limited to acquired immune deficiency syndrome or infection with the human immunodeficiency virus, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform the duties of the person's employment.

(5) "Disabled" means having a disability.

(6) "Employee" means an individual employed by an employer, including an individual subject to the civil service laws of the state or a political subdivision of the state, except that the term "employee" does not include an individual elected by the qualified voters to public office in the state or a political subdivision of the state, an individual chosen by that officer to be on the officer's personal staff, an appointee on the policy-making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of public office.

(7) "Employer" means:

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(B) a county or municipality or any state agency or instrumentality, including public institutions of higher education, regardless of the number of individuals employed.

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(11) "National origin" includes the national origin of an ancestor.

(12) "Person" means one or more individuals or an association, corporation, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, the state, or a political subdivision or agency of the state.

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(14) "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship on the conduct of the employer's business.

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Sec. 5.01. Employers.

It is an unlawful employment practice for an employer:

(1) to fail or refuse to hire or to discharge an individual or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, disability, religion, sex, national origin, or age; or

(2) to limit, segregate, or classify an employee or applicant for employment in a way that would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, disability, religion, sex, national origin, or age.

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Sec. 5.04. Training Programs.

(a) Unless the training or retraining opportunities or programs are provided under an affirmative action plan approved according to federal law, rule, or order, it is an unlawful employment practice for an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to discriminate against an individual because of disability, age, race, color, religion, sex, or national origin in admission to or participation in a program established to provide apprenticeship, on-the-job, or other training or retraining opportunities.

(b) For the purposes of this section, "because of age" refers only to discrimination because of age against an individual who is at least 40 years of age but younger than 56 years of age.

Sec. 5.05. Other Discriminatory Employment Practices.

(a) It is an unlawful employment practice for an employer, labor union, or employment agency:

(1) to retaliate or discriminate against a person who has opposed a discriminatory practice or who has made or filed a charge, filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act;

(2) to aid, abet, incite, or coerce a person to engage in a discriminatory practice;

(3) wilfully to interfere with the performance of a duty or the exercise of a power by the commission, one of its staff, or its representatives; or

(4) wilfully to obstruct or prevent a person from complying with the provisions of this Act or a valid rule or order issued under this Act.

(b) Unless disability, religion, sex, national origin, or age is a bona fide occupational qualification, it is an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to print or publish or cause to be printed or published a notice or advertisement relating to employment indicating a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age, if the notice or advertisement concerns an employee's status, employment, or admission to or membership or participation in a labor union or an apprenticeship, on-the-job, or other training or retraining program.

Sec. 5.06. Exceptions.

This article does not apply to:

(1) the employment of an individual of a particular religion by a religious corporation, association, or society to perform work connected with the performance of religious activities by the corporation, association, or society;

(2) the employment of an individual by his parent, spouse, or child; or

(3) any labor union, firm, association, or individual participating in a U.S. Department of Labor-approved statewide hometown plan on the effective date of this Act.

Sec. 5.07. Nondiscriminatory Practices.

(a) Notwithstanding any other provision of this article, it is not an unlawful employment practice:

(1) for an employer to hire and to employ employees, for an employment agency to classify or refer for employment an individual, for a labor organization to classify its members or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to admit or employ an individual in its program, on the basis of disability, religion, sex, national origin, or age, if disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise;

(2) for a religious corporation, association, society, or educational institution or an educational organization operated, supervised, or controlled, in whole or in substantial part, by a religious corporation, association, or society to limit employment or give preference to members of the same religion;

(3) for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, bona fide merit system, or a bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade this Act, or under a system that measures earnings by quantity or quality of production if those different standards are not discriminatory on the basis of race, color, disability, religion, sex, national origin, or age, except that no employee benefit plan may excuse a failure to hire on the basis of age and no seniority or employee benefit plan may require or permit involuntary retirement on the basis of age;

(4) for an employer to apply to employees who work in different locations different standards of compensation or different terms, conditions, or privileges of employment if those different standards are not discriminatory on the basis of race, color, disability, religion, sex, national origin, or age;

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(6) for a public school official to adopt or implement a plan reasonably designed to end discriminatory school practices; or

(7) for an employer to engage in any practice that has a discriminatory effect and that would otherwise be prohibited by this Act if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of this Act and is justified by business necessity.

(b) The employment of one person in place of another, standing by itself, is not evidence of an unlawful employment practice.

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Sec. 5.09. Imbalance Plans.

This Act may not be interpreted to require a person subject to this Act to grant preferential treatment to an individual or to a group on the basis of the race, color, disability, religion, sex, national origin, or age of that individual or group because an imbalance exists between the total number or percentage of persons of that individual's or group's race, color, disability, religion, sex, national origin, or age employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to or employed in any apprenticeship, on-the-job, or other training or retraining program, and the total number or percentage of persons of that race, color, disability, religion, sex, national origin, or age in any community, this state, region, or other area, or in the available work force in any community, this state, region, or other area.

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Title 110A. **PUBLIC OFFICES, OFFICERS AND EMPLOYEES.**

Art. 6252–11c. **Use of Private Consultants by State Agencies.**

Sec. 4. **Notice of Intent To Employ Consultant.** [65th Leg., 1977]

At least 30 days before contracting to use a private consultant whose total anticipated fee exceeds $10,000, a state agency shall notify the Legislative Budget Board and the Governor's Budget and Planning Office of the agency's intent to use a private consultant and shall supply the Legislative Budget Board and the Governor's Budget and Planning Office with information demonstrating that the agency has complied with the policies of Section 3 of this Act.

Sec. 5. **Information Relating to Consultant Studies.** [65th Leg., 1977; Amended 66th Leg., 1979]

(a) After a state agency contracts to use a private consultant, the state agency shall, upon request, supply the Legislative Budget Board and the Governor's Budget and Planning Office with copies of all documents, films, recordings, or reports of intangible results of the consultant service that are developed by the private consultant.

(b) Copies of all documents, films, recordings, or reports of intangible results shall be filed with the Texas State Library and shall be retained by the library at least five years after receipt.

(c) As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the Governor's Budget and Planning Office, a state agency shall supply the Legislative Budget Board and the Governor's Budget and Planning Office with reports on what action was taken in response to the recommendations of any private consultant employed by the state agency.

Sec. 6. **Publication in Texas Register.** [65th Leg., 1977; Amended 66th Leg., 1979]

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(c) The Texas State Library shall compile a list of documents, films recordings, and reports of intangible results submitted to it under Section 5(b) of this Act and shall file the list in each quarter of the calendar year with the Secretary of State for publication in the *Texas Register.*

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Art. 6252–16a. **Protection of Public Employee who Reports a Violation of Law.** [68th Leg., 1983; Amended 71st Leg., 1989]

Sec. 2. **Retaliation Prohibited.**

A state or local governmental body may not suspend or terminate the employment of, or otherwise discriminate against, a public employee who reports a violation of law to an appropriate law enforcement authority if the employee report is made in good faith.

Sec. 3. **Remedy; Burden of Proof; Venue; Exhaustion of Administrative Remedies**

(a) A public employee who alleges a violation of this Act may sue for injunctive relief, damages, or both. Except as provided for in Subsection (d) of this section, an employee who seeks relief under this Act must sue not later than the 90th day after the day the alleged violation occurred or was discovered by the employee through the use of reasonable diligence.

(b) A public employee who sues under this section has the burden of proof, but it is a rebuttable presumption that the employee was suspended or terminated for reporting a violation of law if the employee is suspended or terminated not later than the 90th day after making a report in good faith.

(c) A public employee who sues under this section may bring suit in the district court of the county in which he resides or in the district court of Travis County.

(d) Before bringing an action under this section, an employee of a local governmental body must exhaust any applicable grievance or appeal procedures adopted by the employing local governmental body to resolve disputes concerning the suspension or termination of an employee's employment or an allegation of unlawful discrimination. Time used by the employee in following those procedures may not be included in the determination of the running of the limitations period established by Subsection (a) of this section. The employee must invoke the grievance or appeal procedure not later than the 90th day after the date the alleged violation occurred or was discovered by the employee through the use of reasonable diligence.

(e) If a final decision is not rendered within 30 days of initiation, the provisions of Subsection (d) do not apply.

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Sec. 5. **Civil Penalty.**

(a) A supervisor who suspends or terminates the employment of a public employee for reporting a violation of law under this Act is subject to a civil penalty not to exceed $1,000. The attorney general or the appropriate prosecuting attorney may sue to collect the penalty.

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Sec. 6. **Notice.**

Each state or local governmental body shall notify its employees of their rights under this Act by posting an appropriately worded sign in a prominent place in the workplace. The director of the state employees division of the office of the attorney general shall prescribe the design and content of the sign.

Art. 6252-17. **Prohibition on Governmental Bodies From Holding Meetings Which are Closed to the Public.** [60th Leg., 1967; Amended 71st Leg., 1989]

Sec. 1. **Definitions.**

As used in this Act:

(a) "Meeting" means any deliberation between a quorum of members of a governmental body, or between a quorum of members of a governmental body and any other person, at which any public business or public policy over which the governmental body has supervision or control is discussed or considered, or at which any formal action is taken. It shall not be construed that the intent of this definition is to prohibit the gathering of members of the governmental body in numbers of a quorum or more for social functions unrelated to the public business which is conducted by the body or for attendance of regional, state, or national conventions or workshops as long as no formal action is taken and any discussion of public business is incidental to the functions, conventions, or workshops.

(b) "Deliberation" means a verbal exchange during a meeting between a quorum of members of a governmental body, or between a quorum of members of a governmental body and any other person, concerning any issue within the jurisdiction of the governmental body or any public business.

(c) "Governmental body" means any board, commission, department, committee, or agency within the executive or legislative department of the state, which is under the direction of one or more elected or appointed members; and every Commissioners Court and city council in the state, and every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city; and the board of trustees of every school district, and every county board of school trustees and county board of education; and the governing board of every special district heretofore or hereafter created by law.

(d) "Quorum" unless otherwise defined by constitution, charter, rule or law applicable to such governing body, means a majority of the governing body.

Sec. 2. **Application of Act.**

(a) Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless a quorum of the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.

(b) In this Act, the Legislature is exercising its rule-making powers to prohibit secret meetings of the Legislature, its committees, or any other bodies associated with the Legislature, except as otherwise specifically permitted by the Constitution.

(c) A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.

(d) Nothing in this Act shall be construed to affect the deliberation of grand juries.

(e) Private consultations between a governmental body and its attorney are not permitted except in those instances in which the body seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this Act.

(f) The public may be excluded from that portion of a meeting during which a discussion is had with respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiating position of the governmental body as between such body and a third person, firm or corporation.

(g) Nothing in this Act shall be construed to require governmental bodies to hold meetings open to the public in cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.

(h) Nothing in this Act shall be construed to require school boards to hold meetings open to the public in cases involving discipline of public school children unless an open hearing is requested in writing by a parent or guardian of the child.

(i) All or any part of the proceedings in any public meeting of any governmental body as defined hereinabove may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of sonic or visual reproduction. The governmental body may adopt reasonable rules to maintain order at the meeting place. These rules may include, but shall not be limited to, a determination of the location of such equipment and the manner in which the recording is conducted; provided, however, *that the rules do not have the effect of preventing or unreasonably impairing camera* coverage or tape recording.

(j) Nothing in this Act shall be construed to require governing bodies to deliberate in open meetings regarding the deployment, or specific occasions for implementation, of security personnel or devices.

(k) Nothing in this Act shall be construed to allow a closed meeting of a governing body where such closed meeting is prohibited, or where open meetings are required, by charter.

(l) Whenever any deliberations or any portion of a meeting are closed to the public as permitted by this Act, no final action, decision, or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and in compliance with the requirements of Section 3A of this Act.

(m) Nothing in this Act shall be construed to require school boards operating under consultation agreements provided for by Section 13.901 of the Texas Education Code to deliberate in open meetings regarding the standards, guidelines, terms, or conditions it will follow or instruct its representatives to follow, in consultation with representatives of employee groups.

(n) Nothing in this Act shall be construed to require an agency wholly financed by Federal funds to deliberate in open meetings.

(o) Nothing in this Act shall be construed to require medical boards or medical committees to hold meetings open to the public in cases where the individual medical and psychiatric records of an applicant for a disability benefit from a public retirement system are being considered.

(p) Nothing in this Act shall be construed to require that interviews or counseling sessions between the members of the Board of Pardons and Paroles and inmates of any facility of the Texas Department of Corrections be open to the public.

(q) The requirements of this Act shall not apply to a meeting of the State Board of Insurance in the discharge of responsibilities to regulate and maintain the solvency of those persons over which the agency has regulatory authority. In this regard, the State Board of Insurance may meet in closed meeting with any of its staff and/or the regulated person or representatives of the regulated person to deliberate and determine appropriate action to be taken with respect to the person's solvency.

[Note: At the time of printing this publication the statute contains two subsection (r)'s.]

(r) Nothing in this Act shall be construed to require a quorum of the members of a governmental body to confer with an employee or employees of the governmental body in an open meeting where such conference is for the sole purpose of receiving information from the employee or employees or to ask questions of the employee or employees; provided, however, that no discussion of public business or agency policy that affects public business shall take place between the members of the governmental body during the conference.

(r) This Act does not prohibit the board of regents or other governing body of an institution of higher education, as defined by Section 61.003 of the Education Code, from holding an open or executive meeting by telephone conference call. Each part of a meeting that is required to be open to the public and that is held by a conference call must be available to be heard by the public at the normal meeting place for the board of regents or, in the case of Systems, the board of regents conference room at the System office and must be tape recorded. The tape recording must be made available to the public. A meeting held by conference call is subject to the same notice requirements that apply to other meetings. For purposes of the notice, the place of the meeting by conference call is considered to be the normal meeting place for the board of regents or, in the case of Systems, the board of regents conference room at the System office. Telephone conference calls shall be restricted to special called meetings requiring immediate action when it is otherwise difficult or impossible to convene a quorum of the board of regents in one location.

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(t) This Act does not require the Credit Union Commission to deliberate in open meetings regarding matters made confidential by law.

Sec. 2A. **Agenda for Closed Meetings.**

(a) For each of its meetings that is closed to the public, except for consultations in accordance with Subsection (e) of Section 2 of this Act, a governmental body shall keep a certified agenda of the proceedings.

(b) The presiding officer must certify that the agenda kept under Subsection (a) of this section is a true and correct record of the proceedings.

(c) The certified agenda shall include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time. The certified agenda shall state the subject matter of each deliberation and shall include a record of any further action taken. The certified agenda of closed or executive sessions shall be made available for public inspection and copying only upon court order in an action brought under this Act.

(d) In lieu of the requirements for maintaining a certified agenda as provided in Subsections (a), (b), and (c) of this section, a governmental body may make a tape recording of the proceedings which shall include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time.

(e) The certified agenda or tape shall be available for in camera inspection by the judge of a district court if litigation has been initiated involving an alleged violation of this Act. The court upon entry of a final judgment may admit the certified agenda or tape into evidence in whole or in part. The court may grant equitable or legal relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or tape of any part of a meeting that was not authorized to be closed under this Act.

(f) The governmental body shall preserve the certified agenda or tape for at least two years after the date of the meeting. If an action involving the meeting is commenced during the required preservation period, the certified agenda or tape shall be preserved pending the outcome of the action.

(g) No member of a governmental body shall participate in a meeting of the governmental body closed to the public knowing that a certified agenda of the meeting is not being kept or tape recording is not being made. A person who violates this subsection commits a Class C misdemeanor.

(h) No individual, corporation, or partnership shall, without lawful authority, knowingly make public the certified agenda or tape recording of a meeting or that portion of a meeting that was closed under authority of this Act. A person who violates this subsection shall be liable to any person injured or damaged thereby for:

(1) actual damages including but not limited to lost wages, damages due to defamation of character, or mental or other emotional distress or other personal injury or damages;

(2) costs of court;

(3) reasonable attorney's fees; and

(4) exemplary or punitive damages in the discretion of the trier of fact.

(i) An offense under Subsection (h) of this section is a Class B misdemeanor.

(j) It shall be a defense to prosecution under Subsection (h) of this section and an affirmative defense in any civil action arising under Subsection (h) that the person releasing the certified agenda or tape thereof had good reason to believe the release was lawful or that the release was the result of a mistake of fact concerning the nature or content of the certified agenda or tape.

Sec. 3. **Mandamus or Injunction to Prevent Closed Meetings.**

(a) Any interested person, including bona fide members of the news media, may commence an action either by mandamus or injunction for the purpose of stopping, preventing, or reversing violations or threatened violations of this Act by members of a governing body. An action taken by a governmental body in violation of this Act is voidable.

(b) In an action brought under this section, a court may assess costs of litigation and reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails. In exercising its discretion, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

Sec. 3A. **Notice of Meetings.**

(a) Written notice of the date, hour, place, and subject of each meeting held by a governmental body shall be given before the meeting as prescribed by this section. The requirement for notice prescribed by this section does not apply to matters about which specific factual information or a recitation of existing policy is furnished in response to an inquiry made at such meeting, whether such inquiry is made by a member of the general public or by a member of the governmental body. Any deliberation, discussion, or decision with respect to the subject about which inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting of such governmental body for which notice has been provided in compliance with this Act.

(b) A State governmental body shall furnish notice to the Secretary of State, who shall then post the notice on a bulletin board to be located in the main office of the Secretary of State at a place convenient to the public.

(c) A city governmental body shall have a notice posted on a bulletin board to be located at a place convenient to the public in the city hall.

(d) A county governmental body shall have a notice posted on a bulletin board located at a place convenient to the public in the county courthouse.

(e) A school district shall have a notice posted on a bulletin board located at a place convenient to the public in its central administrative office and shall give notice by telephone or telegraph to any news media requesting such notice and consenting to pay any and all expenses incurred by the school district in providing special notice.

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(h) Notice of a meeting must be posted in a place readily accessible to the general public at all times for at least 72 hours preceding the scheduled time of the meeting, except that notice of a meeting of a state board, commission, department, or officer having statewide jurisdiction, other than the Industrial Accident Board or the governing board of an institution of higher education, must be posted by the Secretary of State for at least seven days preceding the day of the meeting. In case of emergency or urgent public necessity, which shall be clearly identified in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened. Any public official or person who is designated or authorized to post notices of meetings by a governmental body in accordance with Section 3A of this Act shall post the notice taking at face value the reason for the emergency as stated by the governmental body. Cases of emergency and urgent public necessity are limited to imminent threats to public health and safety or reasonably unforeseeable situations requiring immediate action by the governmental body. Provided further, that where a meeting has been called with notice thereof posted in accordance with this subsection, additional subjects may be added to the agenda for such meeting by posting a supplemental notice, in which the emergency or urgent public necessity requiring consideration of such additional subjects is expressed. In the event of an emergency meeting, or in the event any subject is added to the agenda in a supplemental notice posted for a meeting other than an emergency meeting, it shall be sufficient if the notice or supplemental notice is posted two hours before the meeting is convened, and the presiding officer or the member calling such emergency meeting or posting supplemental notice to the agenda for any other meeting shall, if request therefor containing all pertinent information has previously been filed at the headquarters of the governmental body, give notice by telephone or telegraph to any news media requesting such notice and consenting to pay any and all expenses incurred by the governmental body in providing such special notice. The notice provisions for legislative committee meetings shall be as provided by the rules of the house and senate.

Sec. 3B. **Record of Open Meetings.**

A governmental body shall prepare and retain minutes or make a tape recording of each of its open meetings. The minutes shall state the subject matter of each deliberation and shall indicate each vote, order, decision, or other action taken by the governmental body. The minutes or tapes prepared under this section are public records and shall be made available for public inspection and copying on request to the chief administrative officer of the governmental body or to any other official designated by the chief administrative officer.

Sec. 4. **Violations and Penalties.**

(a) Any member of a governing body who knowingly calls or aids in calling or organizing a special or called meeting or session which is closed to the public, or who knowingly closes or aids in closing a regular meeting or session to the public, or who knowingly participates in a regular, special, or called meeting or session which is closed to the public where a closed meeting is not permitted by the provisions of this Act, shall be guilty of a misdemeanor and on conviction is punishable by a fine of not less than $100 nor more than $500 or imprisonment in the county jail for not less than one month nor more than six months, or both.

(b) Any member or group of members of a governing body who knowingly conspires to circumvent the provisions of this Act by meeting in numbers less than a quorum for the purpose of secret deliberations in contravention of this Act shall be guilty of a misdemeanor and on conviction is punishable by a fine of not less than $100 nor more than $500 or imprisonment in the county jail for not less than one month nor more than six months or both.

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Art. 6252-17a. **Access by Public to Information in Custody of Governmental Agencies and Bodies.** [63rd Leg., 1973; Amended 71st Leg., 1989]

Sec. 1. **Declaration of Policy.**

Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. To that end, the provisions of this Act shall be liberally construed with the view of carrying out the above declaration of public policy.

Sec. 2. **Definitions.**

In this Act:

(1) "Governmental body" means:

(A) any board, commission, department, committee, institution, agency, or office within the executive or legislative branch of the state government, or which is created by either the executive or legislative branch of the state government, and which is under the direction of one or more elected or appointed members;

(B) the commissioners court of each county and the city council or governing body of each city in the state;

(C) every deliberative body having rulemaking or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city;

(D) the board of trustees of every school district, and every county board of school trustees and county board of education;

(E) The governing board of every special district;

(F) the part, section, or portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. Public funds as used herein shall mean funds of the State of Texas or any governmental subdivision thereof;

(G) the Judiciary is not included within this definition.

(2) "Public records" means the portion of all documents, writings, letters, memoranda, or other written, printed, typed, copied, or developed materials which contains public information.

Sec. 3. **Public Information.**

(a) All information collected, assembled, or maintained by or for governmental bodies, except in those situations where the governmental body does not have either a right of access to or ownership of the information, pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees, and further that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or biders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, that student's parent, legal guardian, or spouse or a person conducting a child abuse investigation required by Section 34.05, Family Code;

(15) birth and death records maintained by the Bureau of Vital Statistics of the Texas Department of Health, except that:

(A) a birth record is public information and available to the public on and after the 50th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official; and

(B) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official;

(16) the audit working papers of the State Auditor;

(17) the home addresses and home telephone numbers of each official and employee and each former official and employee of a governmental body except as otherwise provided by Section 3A of this Act, and of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code;

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act, as amended (Article 4476-15, *Vernon's Texas Civil Statutes*);

(19) photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(A) the officer is under indictment or charged with an offense by information; or

(B) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

(C) the photograph is introduced as evidence in a judicial proceeding;

(20) rare books and original manuscripts which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research;

(21) oral history interviews, personal papers, unpublished letters, and organizational records of nongovernmental entities, which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research, to the extent that the archival and manuscript repository and the donor of the interviews, papers, letters, and records may agree to limit disclosure of the item;

(22) curriculum objectives and test items developed by educational institutions that are funded wholly or in part by state revenue and test items developed by licensing agencies or governmental bodies.

(23) the names of applicants for the position of chief executive officer of institutions of higher education, except that the governing body of the institution of higher education must give public notice of the name or names of the finalists being considered for the position at least 21 days prior to the meeting at which final action or vote is to be taken on the employment of the individual.

(b) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from individual members or committees of the legislature to use for legislative purposes.

(c) The officer for public records may in any instance within his discretion make public any information protected under the exceptions contained within Section 3, Subsection (a), that is not deemed confidential by law. A photograph exempt from disclosure under Subsection (a)(19) of this section may also be made public, but only if the peace officer or security officer gives written consent to the disclosure.

(d) It is not intended that the officer for public records or the officer's agent may be called upon to perform general research within the reference and research archives and holding of state libraries.

(e) For purposes of Subsection (a)(3) of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.

Sec. 3A. **Election on Disclosure.**

(a) Each employee or official of a governmental body and each former employee or official of the governmental body, shall choose whether or not to allow public access to the information in the custody of the governmental body relating to the person's home address and home telephone number. Each official and employee and each former official and employee shall state that person's choice to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which the employee begins the employment with the governmental body, the official is elected or appointed, or the former employee or official ends service with the governmental body. If the official's or employee's or the former official's or employee's choice is to not allow public access to the information, the information is protected as provided by Section 3 of this Act. If an employee or official or a former employee or official fails to report within the period established by this section, the information is subject to public access.

(b) If, during the course of the employment or the term of the office, or if, after leaving service with the governmental body the person wishes to close or open public access to the information, that individual may request in writing that the main personnel officer of the governmental body close or open access, as the case may be, to the information.

Sec 3B. **Special Right of Access to Confidential Information.**

(a) A person or the authorized representative of a person has, beyond the right of the general public, a special right of access to and to copies of any records held by a governmental body that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests. The fact that the information is deemed confidential by privacy principles under this Act does not grant the governmental body the right to deny access to the person, or the person's representative, to whom the information relates. However, laws and provisions of this Act, other than ones intended to protect that person's privacy interests, may still form the basis for denial of access to the person or the person's representative to whom the information relates.

(b) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Subsection (a) of this section must be in writing and signed by the specific person or the person's authorized representative. A person under 18 years of age may consent to the release of information under this subsection only with the additional written authorization of the person's parent or guardian. A person who has been adjudicated incompetent to manage the person's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this subsection only by the written authorization of the designated legal guardian or attorney ad litem.

(c) A release of information pursuant to Subsection (a) of this section is not a prohibited release of information to the public under Subsection (a) of Section 10 of this Act.

(d) A person who receives information obtained under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) If a governmental body determines that information covered by a special right of access under this section is excepted from disclosure under any other exception under Subsection (a) of Section 3 of this Act, the governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures described in Section 7 of this Act. If a decision is not so requested, the governmental body shall release the information to the person with a special right of access under this section within 10 days of receiving the request for information.

Sec. 4. **Application for Public Information.**

On application for public information to the officer for public records in a governmental body by any person, the officer for public records shall promptly produce such information for inspection or duplication, or both, in the offices of the governmental body. If the information is in active use or in storage and, therefore, not available at the time a person asks to examine it, the officer for public records shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available for the exercise of the right given by this Act. Nothing in this Act shall authorize any person to remove original copies of public records from the offices of any governmental body.

Sec. 4A. **Examination of Public Information.**

(a) A person requesting public information must complete the examination of the information within 10 days after the date the custodian of the information makes it available to the person.

(b) The officer for public records shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the officer for public records a written request for additional time. The officer for public records shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the officer for public records a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the officer for public records if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Sec. 5. **Officer for Public Records Described.**

(a) The chief administrative officer of the governmental body shall be the officer for public records, except that in counties each elected county officer shall be the officer for public records and the custodian, as defined by Section 201.003, Local Government Code, of the records created or received by that county officer's office. Each department head shall be an agent of the officer for public records for the purposes of complying with this Act. It shall be the duty of the officer for public records, subject to penalties provided in this Act, to see that the public records are made available for public inspection and copying; that the records are carefully protected from deterioration, alteration, mutilation, loss, or unlawful removal; and that public records are repaired, renovated, or rebound when necessary to maintain them properly. When records are no longer currently in use, it shall be within the discretion of the governmental body, or the elected county officer if the records are those of an elective county office, to determine a period of time for which said records will be preserved subject to state laws governing the destruction and other disposition of state and local government records.

(b) Neither the officer for public records nor his agent shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested or establishing whether the officer for public records is authorized under Subsection (e) of

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Section 4A of this Act to refuse to honor the request for the records. The officer for public records or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act.

(c) The officer for public records or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made or because the individual is a member of the media.

Sec. 6. **Specific Information Which Is Public.**

Without limiting the meaning of other sections of this Act, the following categories of information are specifically made public information:

(1) reports, audits, evaluations, and investigations made of, for, or by, governmental bodies upon completion;

(2) the names, sex, ethnicity, salaries, title, and dates of employment of all employees and officers of governmental bodies;

(3) information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by governmental bodies, not otherwise made confidential by law;

(4) the names of every official and the final record of voting on all proceedings in governmental bodies;

(5) all working papers, research material, and information used to make estimates of the need for, or expenditure of, public funds or taxes by any governmental body, upon completion of such estimates;

(6) the name, place of business, and the name of the city to which local sales and use taxes are credited, if any, for the named person, of persons reporting or paying sales and use taxes under the Limited Sales, Excise, and Use Tax Act;

(7) descriptions of an agency's central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(8) statements of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(9) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(10) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency;

(11) each amendment, revisions, or repeal of 7, 8, 9 and 10 above;

(12) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(13) statements of policy and interpretations which have been adopted by the agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public;

(15) information currently regarded by agency policy as open to the public.

Sec. 7. **Attorney General Opinions.**

(a) If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten calendar days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information.

(b) The attorney general shall forthwith render a decision, consistent with standards of due process, to determine whether the requested information is a public record or within one of the above stated exceptions. The specific information requested shall be supplied to the attorney general but shall not be disclosed to the public or requesting party until a final determination has been made by the attorney general or, if suit is filed under the provisions of this Act, until a final decision has been made by the court with jurisdiction over the suit. In a suit filed under this Act, the court may order that the information at issue be discovered only pursuant to a protective order until a final determination is made. If the governmental body wishes to withhold information, it must submit written comments setting forth the reasons why the information should be withheld. Any member of the public may submit written comments setting forth the reasons why the information should or should not be released. The attorney general shall issue a written opinion based upon the determination made on the request.

(c) In cases in which a third party's privacy or property interests may be implicated, including but not limited to Subdivisions (1), (4), (10), and (14) of Subsection (a) of Section 3 of this Act, the governmental body may decline to release the information in order to request an attorney general opinion. A person whose interests may be implicated or any other person may submit in writing to the attorney general the person's reasons for withholding or releasing the information. In such cases, the governmental body may, but is not required to, submit its reasons why the information should or should not be withheld.

Sec. 8. **Writ of Mandamus.**

(a) If a governmental body refuses to request an attorney general's decision as provided in this Act, or to supply public information or information which the attorney general has determined to be a public record, the person requesting the information or the attorney general may seek a writ of mandamus compelling the governmental body to make the information available for public inspection.

(b) In an action brought under this section or Subdivision (3) of Subsection (c) of Section 10, the court may assess costs of litigation and reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails. In exercising its discretion, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

Sec. 9. **Cost of Copies of Public Records.**

(a) The cost to any person requesting noncertified photographic reproductions of public records comprised of pages up to legal size shall not be excessive. The State Purchasing and General Services Commission shall from time to time determine guidelines on the actual cost of standard size reproductions and shall periodically publish these cost figures for use by governmental bodies in determining charges to be made pursuant to this Act. The cost of obtaining a standard or legal size photographic reproduction shall be in an amount that reasonably includes all costs related to reproducing the record, including costs of materials, labor, and overhead unless the request is for 50 pages or less of readily available information.

(b) Charges made for access to public records comprised in any form other than up to standard sized pages or in computer record banks, microfilm records, or other similar record keeping systems, shall be set upon consultation between the officer for public records and the State Purchasing and General Services Commission, giving due consideration to the expenses involved in providing the public records making every effort to match the charges with the actual cost of providing the records. The costs of providing the record shall be in an amount that reasonably includes all costs related to providing the record, including costs of materials, labor, and overhead.

(c) It shall be the policy of all governmental bodies to provide suitable copies of all public records within a reasonable period of time after the date copies were requested. Every governmental body is hereby instructed to make reasonably efficient use of each page of public records so as not to cause excessive costs for the reproduction of public records.

(d) The charges for copies made in the district clerk's office and the county clerk's office may not be greater than the actual cost of the copies as provided in Subsections (a) and (b) of this section unless a certified record, the cost for which is set by law, is requested.

(e) No charge shall be made for one copy of any public record requested from state agencies by members of the legislature in performance of their duties.

(f) The charges for copies made by the various municipal court clerks of the various cities and towns of this state shall be as otherwise provided by ordinance.

(g) Public records shall be furnished without charge or at a reduced charge if the governmental body determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(h) If a governmental body refuses or fails to provide copies of public records at the actual cost of reproducing the records as provided in Subsections (a) and (b) of this section, a person who overpays shall be entitled to recover three times the amount of the overcharge; provided, however, that the governmental body did not act in good faith in computing the costs.

Sec. 10. **Distribution of Confidential Information Prohibited.**

(a) Information deemed confidential under the terms of this Act shall not be distributed.

(b) An officer for public records, or his agent, commits an offense if, with criminal negligence, he or his agent fails or refuses to give access to, or to permit or provide copying of, public records to any person upon request as provided in this Act.

(c) It is an affirmative defense to prosecution under Subsection (b) of this section that the officer for public records reasonably believed that the public records sought were not required to be made available to the public and that he:

(1) acted in reasonable reliance upon a court order or a written interpretation of this Act contained in an opinion of a court of record or of the attorney general issued under Section 7 of this Act;

(2) requested a decision from the attorney general in accordance with Section 7 of this Act, and that such decision is pending; or

(3) within 10 calendar days of the receipt of a decision by the attorney general that the information is public, filed a petition for a declaratory judgment, a writ of mandamus, or both against the attorney general, in a Travis County district court seeking relief from compliance with such decision of the attorney general, and that the petitions are pending.

(d) It is, further, an affirmative defense to prosecution under Subsection (b) of this section that a person or entity has, within 10 calendar days of the receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, and that the cause is pending.

(e) It is an affirmative defense to prosecution under Subsection (b) of this section that the defendant is the agent of an officer for public records and that the agent reasonably relied on the written instruction of the officer for public records not to disclose the public records requested.

(f) Any person who violates Section 10(a) or 10(b) of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by confinement in the county jail not to exceed six (6) months or fined in an amount not to exceed $1,000, or by both such fine and confinement. A violation under this section constitutes official misconduct.

Sec. 11. Bond for Payment of Costs for Preparation of Public Records or Cash Prepayment.

A bond for payment of costs for the preparation of such public records, or a prepayment in cash of the anticipated costs for the preparation of such records, may be required by the officer for public records or the officer's agent as a condition precedent to the preparation of such record where the record is unduly costly and its reproduction would cause undue hardship to the department or agency if the costs were not paid.

Sec. 12. Penalties.

Any person who wilfully destroys, mutilates, removes without permission as provided herein, or alters public records shall be guilty of a misdemeanor and upon conviction shall be fined not less than $25 nor more than $4,000, or confined in the county jail not less than three days nor more than three months, or both such fine and confinement.

Sec. 13. Procedures for Inspection of Public Records.

Each governmental body may promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay.

Sec. 14. Interpretation of this Act.

(a) This Act does not prohibit any governmental body from voluntarily making part or all of its records available to the public, unless expressly prohibited by law; provided that such records shall then be available to any person.

(b) This Act does not authorize the withholding of information or limit the availability of public records to the public, except as expressly so provided.

(c) This Act does not give authority to withhold information from individual members or committees of the Legislature of the State of Texas to use for legislative purposes.

(d) This Act shall be liberally construed in favor of the granting of any request for information.

(e) Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

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Art. 6252–23. Representation Before State Agencies; Registration; Violations.

[55th Leg., 1957]

Sec. 1. Definitions.

In this Act, unless the context otherwise requires:

(a) "state agency" means any office, department, commission or board of the executive department of government;

(b) "person" means any individual including a member of the Legislature, legislative employee, state officer or state employee.

Sec. 2. Registration.

Except as herein provided, every person appearing before a state agency or contacting in person any officer or employee thereof on behalf of any other person, firm, partnership, corporation or association in relation to any case, proceeding, application, or other matter before such agency, shall register in an appropriate record, which shall be maintained by the agency for such purpose, the following information:

(a) the name and address of the registrant;

(b) the name and address of the person, firm, partnership, corporation, or association on whose behalf the appearance or contact is made;

(c) a statement as to whether or not the registrant has received or expects to receive any money, thing of value or financial benefit in return for the services rendered in making the appearance or contact.

This Act shall not apply to officers or employees of a state agency when appearing before or contacting officers or employees of another state agency on official inter-agency matters.

Sec. 3. Reporting And Filing Of Registrations.

Each state agency shall file a report with the Secretary of State between the first and tenth of the month following the close of each calendar quarter. The report shall set forth the names of persons registering with the agency during the preceding quarter, together with the detailed information specified in Section 2 of this Act. Such reports, which shall be considered public records of this state and open to public inspection, shall be appropriately indexed and kept on file in the office of the Secretary of State for a period of four (4) years from the date of filing.

Sec. 3A. Persons Not Required to Register.

No person shall be required to register if:

(a) the contact with a state agency or its officers or employees is solely for the purpose of obtaining information, and no attempt is made to influence the action of any officer or employee of such agency;

(b) the contact consists in participating in a public hearing, at which such person enters his appearance at such hearing;

(c) the contact is made in connection with any matter where pleadings or instruments disclosing such person's representation is on file with the agency;

(d) the contact is one for which such person receives no fee, payment, compensation or any thing of value.

Sec. 4. Penalty.

Any person who fails to register as required by Section 2 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding Five Hundred Dollars ($500) or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

Title 116. **ROADS, BRIDGES, AND FERRIES.**
Chapter 1. **STATE HIGHWAYS.**
Art. 6687b. **Driver's, Chauffeur's, and Commercial Operator's Licenses; Accident Reports.** [47th Leg., 1941; Amended 71st Leg., 1989]

Sec. 21. Records to be Kept by the Department.

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(c) The Department shall not be required to maintain records relating to drivers of motor vehicles after such records are, in the opinion of the Director, no longer necessary, except that records of convictions shall be maintained so long as they may form the basis of cancellations, suspensions, revocations or denials, or with other records of convictions may constitute a person a frequent violator of the traffic law. Records which are not required to be maintained may be destroyed with the approval of the State Auditor and the State Librarian.

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INSURANCE CODE

Chapter 16. **FARM MUTUAL INSURANCE COMPANIES.**

Art. 16.01. **Farm Mutual Insurance; Definitions.** [63rd Leg., 1973; Amended 71st Leg., 1989]

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(b) Farm mutual insurance companies may insure rural and urban dwellings and attendant outhouses and yard buildings, and all their contents for home and personal use, musical instruments and libraries....

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Chapter 17. **COUNTY MUTUAL INSURANCE COMPANIES.**

Art. 17.01. **County Mutual Insurance Companies; Definitions.** [52nd Leg., 1951]

County Mutual Insurance Companies are companies organized for the purpose of insurance on the mutual or cooperative plan against loss or damage by fire, lightning, gas explosion, theft, windstorm and hail, and for all or either of such purposes.

Unless they are restricted by their charters, they may write insurance against said hazards:

(a) On both rural and urban dwellings and attendant outhouses and yard buildings and all their contents for home and personal use – including family vehicles, musical instruments and libraries;

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Chapter 21. **GENERAL PROVISIONS.**

Subchapter E. **MISCELLANEOUS PROVISIONS.**

Art. 21.49-14. **Texas Nonprofit Organizations Liability Pool.** [70th Leg., 1987]

Sec. 1. **Definitions.**

In this article:

(1) "Pool" means the Texas Nonprofit Organizations Liability Pool.

(2) "Fund" means the Texas nonprofit organizations liability fund.

(3) "Board" means the board of trustees of the pool.

(4) "Nonprofit organization" means an organization that is exempt under Section 501(c)(3) or (4), Internal Revenue Code of 1986.

Sec. 2. **Creation of Pool.**

On written agreement of the chief executive officers of not fewer than 15 nonprofit organizations, the Texas Nonprofit Organizations Liability Pool is created to provide primary and excess liability insurance coverage as provided by this article.

Sec. 3. **Scope of Coverage.**

(a) The pool shall insure a nonprofit organization and its officers and employees against liability for acts and omissions under the laws of this state.

(b) Under the liability insurance coverage, the pool shall provide primary and excess liability coverage to nonprofit organizations that qualify under this article and the plan of operation for the pool.

(c) The pool may provide primary liability coverage to a nonprofit organization in an amount not to exceed $250,000. The pool may provide excess liability coverage to a nonprofit organization in an amount that is found by the board to be actuarially sound.

(d) The pool may participate in the evaluation, settlement, and defense of a claim against a nonprofit organization insured by the pool if the claim is covered by pool coverage.

(e) Under pool coverage, the pool is liable on any claim only to the limit provided by the coverage of the nonprofit organization against which the claim is made.

Sec. 4. **Participation in the Pool.**

A nonprofit organization is entitled to coverage from the pool on:

(1) submitting a complete application;

(2) providing any other information required by the pool;

(3) meeting the underwriting standards established by the pool; and

(4) paying the premiums required for the coverage.

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Sec. 18. **Punitive Damages.**

Liability insurance coverage provided by the pool may not provide coverage for punitive damages.

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CIVIL PRACTICE AND REMEDIES CODE

Title 4. **LIABILITY IN TORT.**
Chapter 84. **CHARITABLE IMMUNITY AND LIABILITY.**

Sec. 84.001. **Name of Act.** [70th Leg., 1987]

This Act may be cited as the Charitable Immunity and Liability Act of 1987.

Sec. 84.002. **Findings and Purposes.** [70th Leg., 1987]

The Legislature of the State of Texas finds that:

(1) robust, active, bona fide, and well-supported charitable organizations are needed within Texas to perform essential and needed services;

(2) the willingness of volunteers to offer their services to these organizations is deterred by the perception of personal liability arising out of the services rendered to these organizations;

(3) because of these concerns over personal liability, volunteers are withdrawing from services in all capacities;

(4) these same organizations have a further problem in obtaining and affording liability insurance for the organization and its employees and volunteers;

(5) these problems combine to diminish the services being provided to Texas and local communities because of higher costs and fewer programs;

(6) the citizens of this state have an overriding interest in the continued and increased delivery of these services that must be balanced with other policy considerations; and

(7) because of the above conditions and policy considerations, it is the purpose of this Act to reduce the liability exposure and insurance costs of these organizations and their employees and volunteers in order to encourage volunteer services and maximize the resources devoted to delivering these services.

Sec. 84.003. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this chapter:

(1) "Charitable organization" means:

(A) any organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) or 501(c)(4) of the code, if it is a nonprofit corporation, foundation, community chest, or fund organized and operated exclusively for charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, or educational purposes, excluding private primary or secondary schools, alumni associations and related on-campus organizations, or is organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community;

(B) any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, or educational organization, excluding alumni associations and related on-campus organizations, or other organization organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community, and that:

(i) is organized and operated exclusively for one or more of the above purposes;

(ii) does not engage in activities which in themselves are not in furtherance of the purpose or purposes;

(iii) does not directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office;

(iv) dedicates its assets to achieving the stated purpose or purposes of the organization;

(v) does not allow any part of its net assets on dissolution of the organization to inure to the benefit of any group, shareholder, or individual; and

(vi) normally receives more than one-third of its support in any year from private or public gifts, grants, contributions, or membership fees; or

(C) a homeowners association as defined by Section 528(c) of the Internal Revenue Code of 1986.

(2) "Volunteer" means a person rendering services for or on behalf of a charitable organization who does not receive compensation in excess of reimbursement for expenses incurred, and such term includes a person serving as a director, officer, trustee, or direct service volunteer.

(3) "Employee" means any person, including an officer or director, who is in the paid service of a charitable organization, but does not include an independent contractor.

(4) "Good faith" means the honest, conscientious pursuit of activities and purposes that the organization is organized and operated to provide.

Sec. 84.004. **Volunteer Liability.** [70th Leg., 1987]

(a) Except as provided by Subsection (c) of this section and Section 84.007 of this Act, a volunteer who is serving as an officer, director, or trustee of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer was acting in the course and scope of his duties or functions as an officer, director, or trustee within the organization.

(b) Except as provided by Subsection (c) of this section and Section 84.007 of this Act, a volunteer who is serving as a direct service volunteer of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer was acting in good faith and in the course and scope of his duties or functions within the organization.

(c) A volunteer of a charitable organization is liable to a person for death, damage, or injury to the person or his property proximately caused by any act or omission arising from the operation or use of any motor-driven equipment, including an airplane, to the extent insurance coverage is required by Section 1A, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, *Vernon's Texas Civil Statutes*), and to the extent of any existing insurance coverage applicable to the act or omission.

(d) The provisions of this section apply only to the liability of volunteers and do not apply to the liability of the organization for acts or omissions of volunteers.

Sec. 84.005. **Employee Liability.** [70th Leg., 1987]

Except as provided in Section 84.007 of this Act, in any civil action brought against an employee of a nonhospital charitable organization for damages based on an act or omission by the person in the course and scope of the person's employment, the liability of the employee is limited to money damages in a maximum amount of $500,000 for each person and $1,000,000 for each single occurrence of bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

Sec. 84.006. **Organization Liability.** [70th Leg., 1987]

Except as provided in Section 84.007 of this Act, in any civil action brought against a nonhospital charitable organization for damages based on an act or omission by the organization or its employees or volunteers, the liability of the organization is limited to money damages in a maximum amount of $500,000 for each person and $1,000,000 for each single occurrence of bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

Sec. 84.007. **Applicability.** [70th Leg., 1987]

(a) This chapter does not apply to an act or omission that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

(b) This chapter does not limit or modify the duties or liabilities of a member of the board of directors or an officer to the organization or its members and shareholders.

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(g) Sections 84.005 and 84.006 of this Act do not apply to any charitable organization that does not have liability insurance coverage in effect on any act or omission to which this chapter applies. The coverage shall apply to the acts or omissions of the organization and its employees and volunteers and be in the amount of at least $500,000 for each person and $1,000,000 for each single occurrence for death or bodily injury and $100,000 for each single occurrence for injury to or destruction of property. The coverage may be provided under a contract of insurance or other plan of insurance authorized by statute. Nothing in this chapter shall limit liability of any insurer or insurance plan in an action under Chapter 21, Insurance Code, or in an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

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Title 5. GOVERNMENTAL LIABILITY.
Chapter 101. TORT CLAIMS.
Subchapter B. Tort Liability of Governmental Units.

Sec. 101.021. **Governmental Liability.**

A governmental unit in the state is liable for:

(1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:

(A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and

(B) the employee would be personally liable to the claimant according to Texas law; and

(2) personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

Sec. 101.0215. **Liability of a Municipality.** [70th Leg., 1987]

(a) A municipality is liable under this chapter for damages arising from its governmental functions, which are those functions that are enjoined on a municipality by law and are given it by the state as part of the state's sovereignty, to be exercised by the municipality in the interest of the general public, including but not limited to:

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(15) libraries and library maintenance;

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Chapter 102. TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS.

Sec. 102.001. **Definitions.** [Amended 70th Leg., 1987]

In this chapter:

(1) "Employee" includes an officer, volunteer, or employee, a former officer, volunteer, or employee, and the estate of an officer, volunteer, or employee or former officer, volunteer, or employee of a local government.

(2) "Local government" means a county, city, town, special purpose district, and any other political subdivision of the state.

Sec. 102.002. **Payment of Certain Tort Claims.**

(a) A local government may pay actual damages awarded against an employee of the local government if the damages:

(1) result from an act or omission of the employee in the course and scope of his employment for the local government; and

(2) arise from a cause of action for negligence.

(b) The local government may also pay the court costs and attorney's fees awarded against an employee for whom the local government may pay damages under this section.

(c) A local government may not pay damages awarded against an employee that:

(1) arise from a cause of action for official misconduct; or

(2) arise from a cause of action involving a wilful or wrongful act or omission or an act or omission constituting gross negligence.

(d) A local government may not pay damages awarded against an employee to the extent the damages are recoverable under an insurance contract or a self-insurance plan authorized by statute.

Sec. 102.003. **Maximum Payments.**

Payments under this chapter by a local government may not exceed $100,000 to any one person or $300,000 for any single occurrence in the case of personal injury or death or $10,000 for a single occurrence of property damage.

Sec. 102.004. **Defense Counsel.**

(a) A local government may provide legal counsel to represent a defendant for whom the local government may pay damages under this chapter. The counsel provided by the local government may be the local government's regularly employed counsel, unless there is a potential conflict of interest between the local government and the defendant, in which case the local government may employ other legal counsel to defend the suit.

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Chapter 104. STATE LIABILITY FOR CONDUCT OF PUBLIC SERVANTS.

Sec. 104.001. **State Liability; Persons Covered.** [Amended 70th Leg., 1987]

In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

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(4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of an institution of higher education, as that term is defined by Section 61.003(8), Education Code, not including a public junior college;

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Sec. 104.002. **State Liability; Conduct Covered.** [Amended 70th Leg., 1987]

The state is liable for indemnification under this chapter only if the damages are based on an act or omission by the person in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the agency, institution, or department and if:

(1) the damages arise out of a cause of action for negligence, except a wilful or wrongful act or an act of gross negligence; or

(2) the damages arise out of a cause of action for deprivation of a right, privilege, or immunity secured by the constitution or laws of this state or the United States, except when the court in its judgment or the jury in its verdict finds that the person acted in bad faith, with conscious indifference or reckless disregard; or

(3) indemnification is in the interest of the state as determined by the attorney general or his designee.

Sec. 104.003. **Limits on Amount of Recoverable Damages.** [Amended 70th Leg., 1987]

(a) Except as provided by Subsection (c), state liability for indemnification under this chapter may not exceed:

(1) $100,000 to a single person and $300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and

(2) $10,000 for a single occurrence of damage to property.

(b) The state is not liable under this chapter to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute.

(c) The limits on state liability provided by Subsection (a) do not apply if the person for whose acts the state is liable under this chapter is a member of the Texas Board of Criminal Justice.

Sec. 104.0035. **State Liability; Criminal Prosecution.** [70th Leg,, 1987]

(a) The state shall indemnify a person for reasonable attorney's fees incurred in defense of a criminal prosecution against the person if:

(1) the person is covered by Section 104.001;

(2) the attorney general determines that the conduct for which the person is criminally prosecuted could give rise to a civil cause of action covered by Section 104.002;

(3) the person is found not guilty after a trial or appeal or the complaint, information, or indictment is dismissed without a plea of guilty or nolo contendere being entered; and

(4) the attorney general determines that the complaint, information, or indictment presented against the person was dismissed because:

(A) the presentment was made on mistake, false information, or other similar basis, indicating absence of probable cause to believe, at the time of the dismissal, the person committed the offense; or

(B) the complaint, information, or indictment was void.

(b) State liability for indemnification under this section may not exceed $10,000 for the prosecution of a criminal offense or the prosecution of two or more offenses prosecuted in a single criminal action.

(c) This section does not apply to a person who is criminally prosecuted for driving while intoxicated under Article 67011-1, Revised Statutes, or for involuntary manslaughter under Section 19.05(a)(2), Penal Code.

(d) An initial determination of the liability of the state for indemnification and the reasonableness of attorney's fees under this section shall be made by the attorney general upon application by any person other than:

(1) an employee or former employee of the attorney general's office; or

(2) the attorney general or a former attorney general.

(e) If the attorney general determines under Subsection (d) that the state is liable for indemnification, the attorney general shall indemnify the person for reasonable attorney's fees as provided by this section from funds appropriated for that purpose. If the attorney general determines that the state is not liable for indemnification, the person may appeal to a district court in Travis County. A person who is not entitled to an initial determination under Subsection (d) may bring an action in a district court in Travis County.

(f) The district court in Travis County has jurisdiction to hear a suit under this section and may issue an order directing the attorney general's office to indemnify the person for reasonable attorney's fees as provided by this section. The judgment of the district court is final and is not subject to appeal.

Sec. 104.004. **Defense by Attorney General.** [Amended 70th Leg., 1987]

(a) The attorney general shall defend a public servant or estate listed in Section 104.001 in a cause of action covered by this chapter.

(b) The attorney general may settle or compromise the portion of a lawsuit that may result in state liability under this chapter.

(c) It is not a conflict of interest for the attorney general to defend a person under this chapter and also to prosecute a legal action against that person as required or authorized by law if different assistant attorneys general are assigned the responsibility for each action.

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Chapter 106. DISCRIMINATION BECAUSE OF RACE, RELIGION, COLOR, SEX, OR NATIONAL ORIGIN.

Sec. 106.001. **Prohibited Acts.** [Amended 70th Leg., 1987]

(a) An officer or employee of the state or of a political subdivision of the state who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

(1) refuse to issue to the person a license, permit, or certificate;

(2) revoke or suspend the person's license, permit, or certificate;

(3) refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state;

(4) refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;

(5) refuse to grant a benefit to the person;

(6) impose an unreasonable burden on the person; or

(7) refuse to award a contract to the person.

(b) This section does not apply to a public school official who is acting under a plan reasonably designed to end discriminatory school practices.

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Sec. 106.002. **Remedies.**

(a) If a person has violated or there are reasonable grounds to believe a person is about to violate Section 106.001, the person aggrieved by the violation or threatened violation may sue for preventive relief, including a permanent or temporary injunction, a restraining order, or any other order.

(b) In an action under this section, unless the state is the prevailing party, the court may award the prevailing party reasonable attorney's fees as a part of the costs. The state's liability for costs is the same as that of a private person.

Sec. 106.003. **Penalties.**

(a) A person commits an offense if the person knowingly violates Section 106.001.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than one year; or

(3) both the fine and confinement.

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EDUCATION CODE

Title 1. **GENERAL PROVISIONS.**
Chapter 4. **PENAL PROVISIONS.**

Sec. 4.05. **Improper Payment of Salaries.**

Any employee of the state or of any district, county, city, town, or school, who may be responsible for the payment of the salary of any county judge acting as ex officio county superintendent of public schools, or of any county, district, or town superintendent or principal, or other school officer, or any teacher, librarian, assessor, county treasurer, treasurer of county school depository, or treasurer of school district depository, after notice by the commissioner of education that the person has failed to comply with the provisions of Sec. 21.254 of this code shall be guilty of a misdemeanor and upon conviction shall be fined not less than $50 nor more than $500.

Title 2. **PUBLIC SCHOOLS.**
Chapter 11. **CENTRAL EDUCATION AGENCY.**
Subchapter B. **State Board Of Education.**

Sec. 11.30. **Authority to Enter Into Contracts for Grants.**

For the maintenance and improvement of state educational programs and activities in the public schools, the State Board of Education may enter into contracts for grants from both public and private organizations and may expend such funds under the terms and for the specific purposes contracted.

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Sec. 11.32. **Regional Education Service Centers.** [Amended 71st Leg., 1989]

(a) The State Board of Education shall provide, by rules and regulations, for the establishment and operation of Regional Education Service Centers to provide educational services to the school districts and to coordinate educational planning in the region.

(b) Regional centers shall be located throughout the state so that each school district has the opportunity to be served and to participate in an approved center, on a voluntary basis. No center shall be approved unless it serves an area having 50,000 or more eligible scholastics in average daily attendance for the next preceding school year, except that the State Board of Education may make an exception for sparsely populated areas.

(c) Each center shall be governed by a seven-member board. The State Board of Education shall adopt uniform rules and regulations to provide for the local selection, appointment, and continuity of membership for regional boards of directors. Vacancies shall be filled by appointment by the remaining members of the regional board for the unexpired term. All members shall serve without compensation.

(d) The Regional Board of Directors is authorized to employ an executive director for its respective center and such other personnel, professional and clerical, as it deems necessary to carry out the functions of the center, and to do and perform all things which it deems proper for the successful operation thereof, and to pay for all operating expenses by warrants drawn on proper funds available for such purpose.

(e) The Regional Board of Directors of each Regional Education Service Center, under rules of the State Board of Education, may enter into contracts for grants from both public and private organizations and to expend such funds for the specific purposes in accordance with the terms of the contract with the contracting agency.

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(g) Each Regional Education Service Center, within each six-year period shall:

(1) perform a self-study of the effectiveness of its services to school districts;

(2) invite a panel of distinguished personnel from other service centers, public school administrators, and other persons deemed appropriate by the service center board to evaluate the practices and services provided by the service center; and

(3) be subject to a management and service audit conducted by the Central Education Agency.

[Note: At the time of printing this publication the statute contains two subsection (h)'s.]

(h) The Central Education Agency shall conduct an annual evaluation of the basic educational services provided by the regional centers. The State Board of Education shall review the results of the evaluations at least every six years to determine the need for the continuance, consolidation, or reorganization of the regional centers.

(h) The commissioner of education, with the approval of the State Board of Education, may enter into performance contracts with regional education service centers for technical assistance and other services to school districts in relation to accreditation, training, curriculum, implementation of the Public Education Information Management System (PEIMS), and other services approved by the State Board of Education. The commissioner shall file summaries of all approved performance contracts with the Governor's Office of Budget and Planning and with the legislative budget office. Funding for these performance contracts shall be provided by appropriation.

Sec. 11.33. General Powers and Duties of Regional Education Service Centers.

[Amended 67th Leg., 1981]

(a)(1) Regional Education Media Centers shall be established and operated by Regional Education Service Centers under rules of the State Board of Education in order to furnish participating school districts with education media materials, equipment and maintenance, and educational services.

(2) Centers approved by the State Board of Education as meeting their requirements shall develop, provide, and make available to participating school districts education media services.

(3) A Regional Education Media Center is an area center, composed of one or more Texas school districts, that is approved to house, circulate, and service educational media for the public schools of the participating districts.

(4) Any school district which is a participant member of a Regional Education Media Center may elect to withdraw its membership in the center for a succeeding scholastic year, electing not to support nor to receive its services for any succeeding year. Title to and all educational media and property purchased by the center shall remain with and in the center.

(5) The cost incident to setting up the centers, their operation, and the purchase of education media supplies and equipment shall be borne by the state and each participating district to the extent and in the manner provided in this subsection.

(6) The state shall allot and pay to each approved center annually an amount determined on the basis of not to exceed $1, or a greater amount provided by the General Appropriations Act, for each scholastic in average daily attendance for the next preceding school year in the district or districts that are participants in an approved center. The funds or amount provided by the state shall be used only to purchase, maintain, and service educational media or equipment for the center which have prior approval of its Regional Board of Directors and the State Board of Education through its budgetary system.

(7) School districts as participant members in the center shall provide and pay to the proper center a proportionate amount determined on the basis of the average daily student attendance for the next preceding school year matching the amount provided by the state. The matching funds provided by the participant districts, including any donated or other local funds, may be used to pay for costs of administration of or servicing by the center and to purchase supplemental educational media. A center shall not enter into obligations which shall exceed funds available or reasonably anticipated as receivable for the current school year.

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(b)(1) A program of financial assistance for computer services to school districts of the state through Regional Education Service Centers shall be developed by the State Board of Education to encourage a planned statewide network or system of computer services designed to meet public school educational and informational needs. Toward achievement of maximum efficiency and to insure a practicable uniformity in services, the State Board of Education, by rules and regulations, shall adopt eligibility requirements for data processing computer services to receive the state financial assistance authorized herein.

(2) Only computer services that are provided by or through a Regional Education Service Center to make available computer services required to meet the needs of the school districts of one or more Education Service Center regions shall be eligible for financial assistance hereunder.

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(c)(1) The State Board of Education shall promulgate rules, in compliance with the approved statewide design for special education, to provide for a plan for the coordination of services to handicapped children within each geographical area served by a Regional Education Service Center. Regional Education Service Centers, under the procedures set forth in this plan, may provide supplementary or technical assistance to school districts for:

(A) identification of existing public or private educational and related services for handicapped children in each region;

(B) identification and referral of handicapped children who cannot be appropriately served by the school district in which they reside to other appropriate programs;

(C) assistance to school districts individually and cooperatively to develop programs to identify and provide appropriate services for handicapped children;

(D) expansion and coordination of services provided by Regional Education Service Centers which are related to programs for handicapped children; and

(E) provision for special services such as special seats, books, instructional media, and other supplemental supplies and services required for quality instruction.

(2) The responsibility for carrying out the provisions of this subsection rests with the commissioner of education, who may allocate funds to regional service centers for the provision of support services for the functions described in this subsection.

(d) Regional Education Service Centers may provide other services to school districts under rules and regulations adopted by the State Board of Education.

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Sec. 11.36. **Library Standards.** [66th Leg., 1979]

(a) The State Board of Education shall establish regulations for accreditation of schools which establish standards for library services and personnel. The standards shall include:

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(1) minimum standards for employment of librarians and other library personnel;

(2) acquisition and maintenance of library materials; and

(3) the operation and development of learning resources programs for each school district in this state.

(b) The standards shall include rules for the expenditure of state funds. The local districts shall not be required to expend local funds for the implementation of this section.

Chapter 21. **PROVISIONS GENERALLY APPLICABLE TO SCHOOL DISTRICTS.**

Subchapter H. **Records And Reports.**

Sec. 21.252. **Reports to State Board.** [Amended 68th Leg., 1984]

The State Board of Education shall require of judges acting as ex-officio county superintendents of public schools, of county, city, and town superintendents, of county and city treasurers and depositories, and of treasurers and depositories of school boards, and of other school officers and teachers, such school reports relating to the school fund and to other school affairs as it may deem proper for collecting information and advancing the interests of the public schools, and shall furnish the county, city, and town superintendents, treasurers, and depositories, and other school officers and teachers for the use of such teachers and officers the necessary blanks and forms for making such reports and carrying out such instructions as may be required of them.

Sec. 21.253. **Registration Card.**

All teachers, librarians, school presidents, superintendents, principals, or other school officers employed by all schools supported wholly or partly by the state, shall fill out and send to the State Department of Education, before the expiration of the first school month of each annual session, a registration card, supplied by the State Department of Education, which card shall furnish blanks for useful statistical information; and the teachers, librarians, school presidents, superintendents, and principals shall not be paid the salary for the first month's services, except on the presentation of a receipt certifying that the registration card has been received by the State Department of Education.

Sec. 21.254. **Withholding of Salary.**

The monthly salary of any county judge acting as ex-officio county superintendent of public schools, or any county, district, city or town superintendent, or principal or any teacher or librarian in any school supported wholly or partly by the state, or any assessor, county treasurer, treasurer in county school depository or treasurer of any school district depository, shall be withheld by the officials or authorities paying the said salary, on notification by the commissioner of education that the county judge, acting as ex-officio county superintendent of public schools, or the county, district, city, or town superintendent or principal, teacher, librarian, assessor, county treasurer, treasurer of county school depository or treasurer of school district depository has refused or failed to make the reports required of him; provided, that this notification shall not be sent by the commissioner of education until at least two written requests have been made for the desired information and until 30 days have elapsed from the time of the first request without the receipt of the information required; in such case the aforesaid monthly salary shall be withheld until a notice is received from the commissioner of education, certifying that the information requested has been furnished by the delinquent person.

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Sec. 21.261. **School District Records.** [71st Leg., 1989]

The preservation, microfilming, destruction, or other disposition of the records of school districts is subject to the requirements of Subtitle C, Title 6, Local Government Code, 1 and rules adopted under that subtitle.

Subchapter J. School-County Library Facilities.

Sec. 21.351. **Contract With County.**

In compliance with the terms of this subchapter, any school district having boundaries embracing the entire area of a county having a valuation in excess of $30 million may enter into contracts with the county and with its board of library trustees to provide joint library facilities.

Sec. 21.352. **Procedure to Execute Contract.**

(a) The procedure by which such contracts may be authorized shall be as prescribed by this section.

(b) The commissioners court of the county shall appoint a board of library trustees consisting of five members who are residents of the county.

(c) The board of library trustees shall organize by appointing a chairman, a secretary, and a treasurer.

(d) The board of library trustees shall call a public meeting for the purpose of presenting to the trustees of the school district and the members of the commissioners court a petition setting forth the need for additional library facilities and the agreement of the board of library trustees to assume the financial obligation of providing and maintaining an adequate public library building upon or adjacent to the school campus or grounds, the building to be used as a county free library and as a school library for the benefit of both the school students and the general public.

(e) The school trustees and the members of the commissioners court, at a joint meeting called for that purpose, shall consider the petition and agreement. If the plan of financing is found to be practicable and feasible and is approved by a majority both of the school trustees and of the commissioners court, a contract in compliance with Section 21.353 of this Code may be executed.

Sec. 21.353. **Contract Provisions.**

(a) Contracts authorized by this Article shall contain the provisions described in this Section in consideration for the agreement of the board of library trustees:

(b) The commissioners court must agree on its part to deliver over to the board of library trustees in trust and keeping the county-owned free library or libraries.

(c) The board of trustees of the school district must agree on its part to convey, with or without added consideration (and is hereby authorized to convey without the necessity of securing the consent of the Texas Education Agency or any officer thereof), the fee simple title to any individual lot or tract of land of any area not greater than two city lots, if any such area is owned by the school district on or adjacent to its campus and is not required under then existing school plans. The conveyance may be conditioned only by reserving to the school district the right to repurchase the tract, in the event of its abandonment for library purposes, at a price not to exceed any outstanding indebtedness against any building constructed thereon by the board of library trustees.

Sec. 21.354. **Construction of Library.**

(a) The public library building, authorized by the above-described contract, shall be constructed according to the provisions of this Section.

(b) After the execution of the joint contracts and the receipt of conveyance of the tract of land, the board of library trustees, by a majority vote at a meeting called for that

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purpose, may employ an architect to prepare plans for the construction of a combined library building and assembly hall.

(c) After the approval of the plans by both the board of trustees of the school district and the commissioners court, the board of library trustees may enter into all necessary contracts for the construction of the building and the equipment thereof. The board of library trustees is authorized to mortgage or encumber the building to secure the financing thereof, but the indebtedness so created must be repaid out of revenue funds produced from the rental of the assembly hall or from private contributions and shall never become a debt against the county of the school district. No taxes shall be levied therefor.

Sec. 21.355. **Management of Library.**

(a) The management and control of the public library building shall be under the supervision and control of the board of library trustees so long as a public free library is maintained therein, subject to the provisions of law as to county free libraries and to the provisions of this Section.

(b) A separate room or rooms shall be provided for the county free library.

(c) The assembly hall and other parts of the building shall be set aside for the use of educational and civic organizations of the county. Educational and civic organizations shall have the right of use of the assembly hall, subject to the rules made by the board of library trustees and the necessary charges for use and maintenance. County civic organizations may use the assembly hall as a public assembly hall in keeping with the rules adopted by the board of library trustees.

Subchapter T. **Accreditation.**

Sec. 21.754. **Investigations.** [68th Leg., 1984; Amended 71st Leg., 1989]

(a) The Central Education Agency shall annually determine whether each school district satisfies the accreditation criteria from reports furnished by the school district or from an on-site evaluation.

(b) The State Board of Education by rule shall establish a schedule for on-site evaluations by the Central Education Agency....

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(f) The agency shall direct investigators to be alert to any fundamental deficiencies in a district's educational system, such as failure of the district to satisfy curriculum requirements, and to report deficiencies to agency staff responsible for research and planning.

(g) In making an accreditation investigation, the investigators shall obtain information from campus administrators, teachers, and parents of students enrolled in the district. The investigation may not be closed until information is obtained from each of those sources. The board shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents the district from screening the information.

(h) The agency shall give written notice to the superintendent and the board of trustees of any impending investigation of the district's accreditation.

Sec. 21.755. **Investigators' Report.** [68th Leg., 1984]

The investigators shall report verbally and in writing to the board of trustees of the district and, as appropriate, to any campus administrators, and shall make suggestions concerning any necessary improvements or sources of aid, such as educational service centers.

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Subchapter Z. **Miscellaneous Provisions.**

Sec. 21.901. **Contracts–Competitive Bidding.** [Amended 71st Leg., 1989]

(a) Except as provided in this section, all contracts proposed to be made by any Texas public school board for the purchase of any personal property shall be submitted to competitive bidding when said property is valued at $10,000 or more.

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(f) The board of trustees of a school district may acquire computers and computer-related equipment, including computer software, through the State Purchasing and General Services Commission under contracts entered into in accordance with the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes). Before issuing an invitation for bids, the commission shall consult with the Central Education Agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

(g)(1) The board of trustees of a school district may purchase without competitive bidding an item that is available from only one source, including:

(A) an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;

(B) a film, manuscript, or book;

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Sec. 21.9011. **Enforcement of Purchase Procedures: Criminal Penalties; Removal; Ineligibility.** [71st Leg., 1989]

(a) In this section:

(1) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(2) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a school district commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Subsection (a) or (b) of Section 21.901 of this code. An offense under this subsection is a Class B misdemeanor.

(c) An officer or employee of a school district commits an offense if the officer or employee intentionally or knowingly violates Subsection (a) or (b) of Section 21.901 of this code, other than by conduct described by Subsection (b) of this section. An offense under this subsection is a Class B misdemeanor.

(d) An officer or employee of a school district commits an offense if the officer or employee intentionally or knowingly violates Section 21.901 of this code, other than by conduct described by Subsection (b) or (c) of this section. An offense under this subsection is a Class C misdemeanor.

(e) The final conviction of an officer or employee of a school district for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the school district with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that school district. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

Sec. 21.912. **Duties of Professional Employees; Liability.** [63rd Leg., 1973]

(a) The board of trustees of each school district within this state shall adopt policies specifying the duties of each of its professional positions of employment. The board of trustees shall assign positions of employment earned under the minimum foundation program to meet the specific needs of the district.

(b) No professional employee of any school district within this state shall be personally liable for any act incident to or within the scope of the duties of his position of employment, and which act involves the exercise of judgment or discretion on the part of the employee, except in circumstances where professional employees use excessive force in the discipline of students or negligence resulting in bodily injury to students.

(c) This section is not applicable to the operation, use, or maintenance of any motor vehicle.

(d) "Professional employee," as used in this section, includes superintendents, principals, classroom teachers, supervisors, counselors, and any other person whose employment requires certification and an exercise of discretion.

Sec. 21.926. **Information to be Posted.** [70th Leg., 1987]

(a) For the benefit of parents of school age children, each school in a district shall post in a conspicuous location in the main administration building accessible to the general public:

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(2) a notice that includes:

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(E) a statement that the district's annual performance report is available in the school library.

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(e) Each school shall have available in its library a copy of the annual performance report for the district required by Section 21.258 of this code.

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Chapter 29. SCHOOLS WITHIN THE DEPARTMENT OF CORRECTIONS.

Sec. 29.01. **Establishment and Location.** [62nd Leg., 1971]

The Board of Corrections may establish and operate schools at the various units of the Department of Corrections.

Sec. 29.02. **Eligibility of Students.** [62nd Leg., 1971]

All persons incarcerated in the Department of Corrections who are not high school graduates are eligible to attend such schools.

Sec. 29.03. **Board May Accept Grants.** [62nd Leg., 1971]

The Board of Corrections may accept grants from both public and private organizations and expend such funds for the purposes of operating the schools.

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Title 3. **HIGHER EDUCATION.**

Chapter 51. **PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION.**

Subchapter A. **Control Of Funds By Certain Institutions.**

Sec. 51.005. **Reports.** [Amended 71st Leg., 1989]

(a) True and full accounts shall be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid. The governing board shall annually, between September 1 and January 1, print a complete report of all the sums collected, all expenditures, and all sums remaining on hand. The report shall show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding year.

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(c) The governing board shall furnish one copy of the report each to the governor, comptroller of public accounts, state auditor, Texas Higher Education Coordinating Board, Legislative Budget Board, House Appropriations Committee, Senate Finance Committee, and Legislative Reference Library. The governing board shall retain five copies of the report for distribution to legislators or other state officials on request.

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Subchapter D. **Information Network Associations.**

Sec. 51.152. **Purpose.**

The purpose of this subchapter is to promote the educational programs of state-supported institutions of higher education in Texas by authorizing the establishment and operation of a cooperative system for communication and information retrieval and transfer between the institutions and between the institutions and private educational institutions, industry, and the public. The system, employing two-way, closed-circuit television and other electronic communication facilities, is to provide a means of effecting the interchange of ideas, talents, faculties, libraries, and data processing equipment and a means of carrying out an approved program of instructional television.

Sec. 51.1521. **Interagency Contracts for Networks.** [70th Leg., 1987]

Any institution of higher education may enter into an interagency contract with one or more other institutions of higher education for the establishment and operation of a telecommunications network for the transmission of audio or video signals or electronic data, but only to the extent that the telecommunications services are not available through a system of telecommunications services established for state agencies generally. Each of those interagency contracts shall be reviewed by the Texas Higher Education Coordinating Board.

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Sec. 51.161. **Powers and Duties of Association.**

(a) The association may acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, a multichannel, two-way communications system, including closed-circuit television, linking classrooms, libraries, computer facilities, information retrieval systems, and communications facilities located at the member institutions.

(b) The association may lease, acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, any facilities in addition to those described in Subsection (a) of this section, which the board considers necessary or desirable in carrying out the purposes of this subchapter.

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Sec. 51.162. **Gifts and Grants.**

The association may accept gifts, grants, or donations of real or personal property from any individual, group, association, or corporation. It may accept grants from the United States government subject to the limitations or conditions provided by law.

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Sec. 51.167. **Designation of Regions for Additional Associations.**

(a) In addition to the Western Information Network Association, the Coordinating Board, Texas College and University System, shall at such times as the board shall determine, divide the state into information network association regions consisting of state-supported institutions of higher education located within geographical boundaries prescribed by the coordinating board.

(b) The coordinating board shall give due consideration to the geographical proximity and number of institutions of higher education to be included within a proposed region.

Sec. 51.168. **Creation of Additional Associations.** [Amended 69th Leg., 1985]

(a) The coordinating board shall create and name an information network association within an information network region if:

(1) a majority of the institutions of higher education within a region apply to create an association; and

(2) the institutions applying show good cause for creating an association.

(b) The coordinating board may not create more than one information network association in an information network region.

(c) Each information network association created is an agency of the state.

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Subchapter G. **Responsibilities Of Governing Boards, System Administrations, And Institutions.**

Sec. 51.354. **Institutional Responsibility.** [70th Leg., 1987]

In addition to specific responsibilities imposed by this code or other law, each institution of higher education has the general responsibility to serve the public and, within the institution's role and mission, to:

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[Note: At the time of printing this publication the statute contains three subchapter N's, one of which is used here.]

Subchapter N. **Partnerships Between Community/Junior Colleges And Upper-Level Universities Or Centers.**

Sec. 51.662. **Partnership Agreements.** [69th Leg., 1985]

With the approval of the coordinating board, the governing boards of a public community/junior college and an upper-level university or center which share a common campus may enter into a partnership agreement designed to coordinate the management and operations of the institutions. The agreements shall in no way abrogate the powers and duties of the boards with regard to the governance of their respective institutions.

Sec. 51.663. **Advisory Committee.** [69th Leg., 1985]

The governing boards of the participating institutions shall appoint an advisory committee composed of three members from each board. The committee shall study the needs of the community served by the institutions and shall make recommendations to the respective boards concerning the development of coordinated programs and services to meet those needs. The committee shall give particular attention to the continuity of curriculum offerings and to the joint use of faculty and staff, facilities, and library resources.

Sec. 51.664. **Joint Use of Personnel.** [69th Leg., 1985]

By interagency contract the governing boards of the participating institutions may fill by joint appointment any administrative, faculty, or support position necessary for the operation of the institutions. In such cases, salaries and benefits shall be prorated and paid from the funds of the respective institutions according to the share of each employee's responsibility to each institution.

Sec. 51.665. **Support Services.** [69th Leg., 1985]

By interagency contract the governing boards of the participating institutions may assign the management and operation of selected services to one of the institutions in order to achieve cost effectiveness. Such services include, but are not limited to, maintenance of building and grounds, operation of auxiliary enterprises, and operation of a jointly supported library.

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Subchapter Z. **Miscellaneous Provisions.**

Sec. 51.903. **Archives; Certified Copies.**

(a) The commissioners court of any county or any other custodian of public records may lend to the library of any state-supported institution of higher education, for any period and on any conditions it may determine, any parts of its archives or records that have become mainly of historical value. The librarian shall give a receipt for any archives or records received. The librarian may make copies for historical study.

(b) The librarian and the archivist of any state-supported institution of higher education are authorized to make certified copies of public records in the custody of the institution. These certified copies are valid in law and have the same force and effect for all purposes as if certified by the county clerk or other custodian as otherwise provided by law. In making a certified copy, the librarian or archivist shall certify that the foregoing is a true and correct copy of the document, and after signing the certificate shall swear to it before any officer authorized to take oaths under the laws of this state.

(c) Nothing in this section affects the authority of the Texas State Librarian concerning public records as currently or later granted by law.

Sec. 51.910. **Interviews for Historical Purposes and Collections of Rare Books, Original Manuscripts, Personal Papers, Unpublished Letters, and Audio and Video Tapes**. [68th Leg., 1983; Amended 70th Leg., 1987]

(a) An oral interview that is obtained for historical purposes by an agreement of confidentiality between an interviewee and a state institution of higher education is not public information. The interview becomes public information when the conditions of the agreement of confidentiality have been met.

(b) Rare books, original manuscripts, personal papers, unpublished letters, and audio and video tapes held by an institution of higher education for the purposes of historical research are confidential, and the institution may restrict access by the public to those materials to protect the actual or potential value of the materials and the privacy of the donors.

Chapter 54. TUITION AND FEES.

Subchapter A. General Provisions.

Sec. 54.006. **Refund of Tuition and Fees.** [65th Leg., 1977; Amended 70th Leg., 1987]

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(e) A general academic teaching institution or medical and dental unit shall terminate student services and privileges, such as health services, library privileges, facilities usage, and athletic and cultural entertainment tickets, when a student withdraws from the institution.

Subchapter E. Other Fees And Deposits.

Sec. 54.502. **General Property Deposits.** [Amended 71st Leg., 1989]

(a) An institution of higher education shall collect a reasonable deposit not to exceed $10 from each student to insure the institution against losses, damages, and breakage in libraries and laboratories. The deposit shall be returned on the withdrawal or graduation of a student, less any loss, damage, or breakage caused by the student.

(b) The medical, dental, and allied health units of The University of Texas System, the Texas College of Osteopathic Medicine, the Texas Tech University Health Sciences Center, and The Texas A&M University College of Medicine may collect a breakage or loss deposit no greater than $30.

Sec. 54.504. **Incidental Fees.** [69th Leg., 1985]

(a) The governing board of an institution of higher education may fix the rate of incidental fees to be paid to an institution under its governance by students and prospective students and may make rules for the collection of the fees and for the distribution of the funds, such funds to be accounted for as other designated funds. The rate of an incidental fee must reasonably reflect the actual cost to the university of the materials or services for which the fee is collected. In fixing such rate, the governing board may consult with a student fee advisory committee which the governing board may establish if such student committee does not presently exist.

(b) The board shall publish in the general catalog of the university a description of the amount of each fee to be charged.

(c) In this section, "incidental fees" includes...such fees as...library fines....

Chapter 55. FINANCING PERMANENT IMPROVEMENTS.

Subchapter B. Revenue Bonds And Facilities.

Sec. 55.11. **General Authority.**

Each board is authorized to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, services, operations, or other facilities, for and on behalf of its institution or institutions, or any branch or branches thereof.

Sec. 55.12. **Contracts for Joint Construction.**

Each board may enter into contracts with municipalities or school districts for the joint construction of museums, libraries, or other buildings.

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Subtitle B. **STATE COORDINATION OF HIGHER EDUCATION.**
Chapter 61. **TEXAS HIGHER EDUCATION COORDINATING BOARD.**
Subchapter C. **Powers And Duties Of Board.**

Sec. 61.051. **Coordination of Institutions of Public Higher Education.** [Amended 71st Leg., 1989]

(a) The board shall represent the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education in the various regions of the state. The board shall be responsible for assuring that there is no discrimination in the distribution of programs and resources throughout the state on the basis of race, national origin, or sex....

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(o) The board shall encourage cooperative programs and agreements among institutions of higher education, including, among others, programs and agreements relating to degree offerings, research activities, and library and computer sharing.

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Sec. 61.057. **Promotion of Teaching Excellence.**

To achieve excellence in the teaching of students at institutions and agencies of higher education, the board shall:

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(4) conduct, and encourage the institutions of higher education to conduct, research into new methods, materials, and techniques for improving the quality of instruction and for the maximum utilization of all available teaching techniques, devices, and resources, including but not limited to...interlibrary exchanges, joint libraries...and other innovations that offer promise for superior teaching or for meeting the need for new faculty members to teach anticipated larger numbers of students; and

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Sec. 61.066. **Studies and Recommendations; Reports.** [Amended 64th Leg., 1975]

(a) The board shall make studies and recommendations directed toward the achievement of excellence or toward improved effectiveness and efficiency in any phase of higher education in Texas and shall report on their studies and recommendations to the governor and the legislature. The officials of the institutions of higher education shall comply with requests for reports or information made by the board or the commissioner. To assure that the institutions of higher education timely file various reports with the appropriate agencies, the board shall receive and distribute the reports required by statute to be filed with the governor, the Legislative Budget Board, the state auditor, the state library, and any other state agency.

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Subchapter E. **Contracts With The Texas College Of Osteopathic Medicine.**

Sec. 61.203. **Disbursements.** [62nd Leg., 1971]

(a) ...Expenditures by the Texas College of Osteopathic Medicine of any state funds received by it shall be limited to the payment of instructional costs, general administration and student services, faculty salaries, departmental operating expense, and library....

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Subtitle C. THE UNIVERSITY OF TEXAS SYSTEM.
Chapter 71. UNIVERSITY OF TEXAS AT SAN ANTONIO.

Sec. 71.06. **Board May Accept Grants and Gifts.**

The board may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas at San Antonio, and in aid of research and teaching at the university. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including...libraries...for the use and benefit of the university.

Chapter 74. OTHER MEDICAL, DENTAL, AND NURSING UNITS OF THE UNIVERSITY OF TEXAS SYSTEM.
Subchapter J. Podiatry School To Be Established And Located.

Sec. 74.504. **Gifts and Grants.** [63rd Leg., 1973]

The board [of regents of the University of Texas System] may accept and administer on terms and conditions satisfactory to it, grants or gifts of property, including real estate and money, that may be tendered to it in aid of research and teaching at the school. The board may accept from the federal government or any foundation, trust fund, corporation, individual, or other legal entity, donations, gifts, and grants, including...libraries...for the use and benefit of the school.

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Subtitle E. THE UNIVERSITY OF TEXAS SYSTEM.
Chapter 95. ADMINISTRATION OF THE TEXAS STATE UNIVERSITY SYSTEM.
Subchapter A. Administrative Provisions.

Sec. 95.01. **Board of Regents.** [Amended 64th Leg., 1975]

The organization, control, and management of the state university system is vested in the Board of Regents, Texas State University System.

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Subchapter B. Powers and Duties of the Board.

Sec. 95.21. **General Responsibilities and Authority of Board.** [Amended 68th Leg., 1983]

(a) The board is responsible for the general control and management of the universities in the system and may...purchase libraries...and perform such other acts as in the judgment of the board contribute to the development of the universities in the system or the welfare of their students.

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Sec. 95.28. **Disbursement of Funds.** [Amended 64th Leg., 1975]

All appropriations made by the legislature for the support and maintenance of the system universities, for the purchase of...libraries...shall be disbursed under the direction and authority of the board. The board may formulate rules for the general control and management of the universities, for the auditing and approving of accounts, and for the issuance of vouchers and warrants which are necessary for the efficient administration of the universities.

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Sec. 95.34. **Donations, Gifts, Grants, and Endowments.** [66th Leg., 1979; Amended 68th Leg., 1983]

(a) The board may accept donations, gifts, grants, and endowments for the universities under its control to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing in the donation, gift, grant, or endowment, not inconsistent with the laws of the state or with the objectives and proper management of the universities. All money accepted under the authority of this section shall be deposited to the credit of one or more special funds created by the board for the university system or universities in the system. The board shall designate one or more depositories for the money received and shall accord money deposited in them the same protection by the pledging of assets of a depository as is required for the protection of public funds.

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Subtitle F. **OTHER COLLEGES AND UNIVERSITIES.**
Chapter 105. **UNIVERSITY OF NORTH TEXAS.**
Subchapter D. **State Historical Collection.**

Sec. 105.61. **Designation.** [Amended 70th Leg., 1987]

The historical collection of the university, consisting of books, documents, stamps, coins, firearms, implements of warfare, relics, heirlooms, and other items of historical importance, is designated a State Historical Collection, to be known as "The State Historical Collection of the University of North Texas."

Chapter 107. **TEXAS WOMAN'S UNIVERSITY.**

Sec. 107.69. **State Historical Collection.** [66th Leg., 1979]

(a) The board may establish an historical collection of items illustrating the history of women in Texas. The historical collection is to be housed in a building belonging to the university and is to be known as "The History of Texas Women." When established, the historical collection may be designated a state historical collection and shall be for the use and enjoyment of all citizens of Texas.

(b) The board may accept donations, gifts, and collections of historical value for the use of the historical collection and shall adopt rules for the receipt, care, custody, and control of items in the collection.

Subtitle G. **NON-BACCALAUREATE SYSTEM.**
Chapter 131. **SOUTHWEST COLLEGIATE INSTITUTE FOR THE DEAF.**

Sec. 131.004. **Courses, Programs, and Services.** [67th Leg., 1981]

(a) The institute shall offer, but is not limited to offering, the following courses, programs, and services for hearing-impaired post-secondary students:

(1) learning development services, including academic counseling, tutorial services, reading instruction, services to counter learning disabilities, and library-related services;

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ELECTION CODE

Title 4. **TIME AND PLACE OF ELECTIONS.**
Chapter 42. **ELECTION PRECINCTS.**
Subchapter B. **Changing County Precinct Boundaries.**

Sec. 42.037. Filing Map of Precinct Boundary Changes With Secretary of State.

(a) Not later than the 120th day after the date an order changing a county election precinct boundary is adopted, the county clerk shall deliver to the secretary of state a map depicting the affected precinct's boundary as changed and showing the number of the precinct.

(b) The secretary of state shall retain each map for 10 years after receipt. After that period, the secretary shall transfer the map to the state library.

(c) The state librarian shall retain the map for 20 years after receipt.

Title 6. **CONDUCT OF ELECTIONS.**
Chapter 67. **CANVASSING ELECTIONS.**

Sec. 67.017. Reporting Precinct Results to Secretary of State.

[Amended 71st Leg., 1989]

(a) After each election for a statewide office or the office of United States representative, state senator, or state representative, the county clerk shall prepare a report of the number of votes, including absentee votes, received in each county election precinct for each candidate for each of those offices. In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.

(b) The county clerk shall deliver the report to the secretary of state not later than the 30th day after election day.

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(d) The secretary of state shall preserve a report received under this section for 10 years unless the secretary prepares a written tabulation of the information contained in the report received. In that case, the secretary shall preserve the original report for two years and the tabulation for 10 years after receipt of the original report.

(e) After the applicable preservation period prescribed by Subsection (d) expires, the secretary of state shall transfer the report or tabulation to the state library.

Title 10. **POLITICAL PARTIES.**
Subtitle B. **PARTIES NOMINATING BY PRIMARY ELECTION.**
Chapter 172. **PRIMARY ELECTIONS.**
Subchapter E. **Conduct Of Election.**

Sec. 172.124. Reporting Precinct Results to Secretary of State. [Amended 71st Leg., 1989]

(a) For each primary election, the county chairman shall prepare a report of the number of votes, including absentee votes, received in each county election precinct by each candidate for a statewide office or the office of United States representative, state senator, or state representative, as provided by Section 67.017 for the report of precinct results for a general election.

(b) The county chairman shall deliver the report to the secretary of state not later than the 30th day after primary election day.

(c) Except as otherwise provided by this section, the report is subject to the requirements prescribed by Section 67.017 for the report prepared for a general election.

Title 14. **ELECTION CONTESTS.**
Subtitle A. **INTRODUCTORY PROVISIONS.**
Chapter 221. **GENERAL PROVISIONS.**

Sec. 221.016. **Preservation of Contest Papers.**

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(b) The papers of a contest in a tribunal other than a court shall be preserved for 10 years after the date the contest is disposed of and shall then be transferred to the state library.

GOVERNMENT CODE

Title 2. **JUDICIAL BRANCH.**
Subtitle A. **COURTS.**
Chapter 22. **APPELLATE COURTS.**
Subchapter C. **Courts Of Appeals.**

Sec. 22.213. **Twelfth Court of Appeals.** [69th Leg., 1985; Amended 70th Leg., 1987]

(a) The Court of Appeals for the Twelfth Court of Appeals District shall be held in the City of Tyler.

(b) The City of Tyler and Smith County shall furnish and equip suitable rooms and a library for the court and the justices without expense to the state.

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[Note: A similar statute applies to the 13th Court of Appeals in Corpus Christi and Nueces County.]

Chapter 30. **MUNICIPAL COURTS OF RECORD.**
Subchapter A. **Lubbock.**

Sec. 30.007. **Court Facilities.** [69th Leg., 1985]

The governing body of the city shall provide courtrooms, jury rooms, officers, office furniture, libraries, law books, and other facilities and supplies that the governing body determines are necessary for the proper operation of the municipal courts of record.

[Note: Similar statutes apply to the cities of Amarillo, Dallas, Houston, Odessa, and San Antonio.]

Subtitle D. **JUDICIAL PERSONNEL AND OFFICIALS.**
Chapter 51. **CLERKS.**
Subchapter C. **Clerks Of Courts Of Appeals.**

Sec. 51.206. **Law Library.** [69th Leg., 1985]

(a) Each clerk of a court of appeals is the librarian of the court and shall keep the books in the court's library in good order and catalogue them.

(b) The clerk may purchase additional law books for the use of the court from the fees collected by the court. Those expenditures may not exceed annually the specific amounts additionally authorized for the purchase of law books in the General Appropriations Act.

(c) All fees collected for the purchase of law books shall be deposited in the state treasury to the credit of the appropriate court. Book expenditures shall be made on a warrant drawn on the state treasury by the state comptroller as provided by the judiciary section of the General Appropriations Act.

Subtitle H. INFORMATION RESOURCES.

Chapter 91. STATE LAW LIBRARY.

Sec. 91.001. **Definitions.** [69th Leg., 1985]

In this chapter:

(1) "Board" means the State Law Library Board.

(2) "Director" means the director of the State Law Library.

(3) "Library" means the State Law Library.

Sec. 91.002. **Library Operations.** [69th Leg., 1985]

(a) The library shall maintain a legal reference facility that includes the statutes and case reports from the several states and legal periodicals and journals.

(b) The facility may be used by the members and staff of the supreme court, court of criminal appeals, the office of the attorney general, and other state entities and by citizens of the state.

Sec. 91.003. **Board; Administration.** [69th Leg., 1985]

(a) The library is administered by the board.

(b) The board is composed of the chief justice of the supreme court, the presiding judge of the court of criminal appeals, and the attorney general.

(c) A member of the board may designate a personal representative to serve for him.

Sec. 91.004. **Compensation.** [69th Leg., 1985]

A member of the board or his personal representative may not receive compensation for his service on the board. A member or his representative is entitled to reimbursement for actual and necessary expenses incurred in attending meetings or performing other official duties, to be paid out of funds appropriated to the board.

Sec. 91.005. **Personnel.** [69th Leg., 1985]

(a) The board shall employ a director of the library and shall set his salary. The director serves at the will of the board and is accountable only to the board.

(b) The director may employ professional and clerical personnel with the approval of the board. The board shall set their salaries.

Sec. 91.006. **Transfer of Library Materials.** [69th Leg., 1985]

(a) The board by unanimous vote may transfer library books, papers, or publications to the library of the Law School of The University of Texas at Austin.

(b) The transferred materials may be recalled by a majority vote of the board.

Sec. 91.007. **Rules.** [69th Leg., 1985]

The board shall adopt rules necessary to ensure the efficient operation of the library.

Sec. 91.008. **Sunset Provision.** [69th Leg., 1985]

The library is subject to the Texas Sunset Act (Chapter 325). Unless continued in existence as provided by that Act, the library is abolished and this chapter expires September 1, 1997.

Sec. 91.009. **Donations.** [71st Leg., 1989]

The library may accept on behalf of the state donations of money and other property as the library considers appropriate. Money donated to the library shall be deposited in the state treasury.

Title 3. LEGISLATIVE BRANCH.
Chapter 302. SPEAKER OF THE HOUSE OF REPRESENTATIVES.
Subchapter C. Legislative Bribery.

Sec. 302.032. **Legislative Bribery: Promises or Threats.** [69th Leg., 1985]

A person commits an offense if, with the intent to influence a member of or candidate for the house of representatives in casting a vote for speaker of the house of representatives, the person:

(1) promises or agrees to cause:

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(B) the appointment of a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

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(2) threatens to cause:

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(B) the failure to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

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Sec. 302.033. **Legislative Bribery: Accepting Benefits.** [69th Leg., 1985]

A member of or candidate for the house of representatives commits an offense if, on the representation or understanding that the member or candidate will cast a vote for a particular person for speaker of the house of representatives, the member or candidate solicits, accepts, or agrees to accept:

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(2) the appointment of or refusal to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

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Subtitle C. LEGISLATIVE AGENCIES.
Chapter 321. STATE AUDITOR.

Sec. 321.013. **Powers and Duties of State Auditor.** [69th Leg., 1985; Amended 70th Leg., 1987]

(a) The State Auditor shall conduct audits of all departments, including institutions of higher education, as specified in the audit plan. At the direction of the committee, the State Auditor shall conduct an audit or investigation of any entity receiving funds from the state.

(b) The State Auditor shall conduct the audits in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants, the Governmental Accounting Standards Board, the United States General Accounting Office, or other professionally recognized entities that prescribe auditing standards.

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(d) At any time during an audit or investigation, the State Auditor may require the assistance of the administrative head, official, auditor, accountant, or other employees of the entity being audited or investigated.

(e) The State Auditor is entitled to access to all of the books, accounts, confidential or unconfidential reports, vouchers, or other records of information in any department or entity subject to audit, including access to all electronic data. However, the State Auditor has access to information and data the release of which is restricted under federal law only with the approval of the appropriate federal administrative agency, and the State Auditor shall have access to copyrighted or restricted information obtained by the Office of the Comptroller of Public Accounts under subscription agreements and utilized in the preparation of economic estimates only for audit purposes.

(f) The State Auditor may conduct financial audits, compliance audits, economy and efficiency audits, effectiveness audits, special audits, and investigations as defined by this chapter and specified in the audit plan.

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Sec. 321.014. **Audit Reports**. [69th Leg., 1985; Amended 71th Leg., 1989]

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(c) The State Auditor shall file a copy of each report prepared under this section with:

****

(5) the Legislative Reference Library;

(6) the chairman of the governing body and the administrative head of each entity that is the subject of the report; and

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Chapter 322. **LEGISLATIVE BUDGET BOARD.**

Sec. 322.007. **Estimates and Reports**. [69th Leg., 1985]

(a) Each institution, department, agency, officer, employee, or agent of the state shall submit any estimate or report relating to appropriations requested by the board or under the board's direction.

(b) Each estimate or report shall be submitted at a time set by the board and in the manner and form prescribed by board rules.

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Sec. 322.010. **Inspections and Hearings.** [69th Leg., 1985]

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(c) The board may hold hearings to consider the estimates required under Section 322.007 and any information gathered under Subsection (a).

Sec. 322.011. **Performance Audits and Reports.** [69th Leg., 1985]

(a) The board shall establish a system of performance audits and evaluations designed to provide a comprehensive and continuing review of the programs and operations of each state institution, department, agency, or commission.

(b) The board shall evaluate the programs and operations of each institution, department, agency, or commission that received an appropriation in the most recent General Appropriations Act. An institution, department, agency, or commission may not be evaluated until after the end of the first full fiscal year of its operation.

(c) On the third Tuesday of each January in which the legislature meets in regular session, the board shall make a performance report to the legislature.

(d) The report shall analyze the operational efficiency and program performance of each institution, department, agency, and commission evaluated. The report shall explicitly state the statutory function each entity is to perform and how, in terms of unit-cost measurement, work load efficiency data, and program output standards established by the board, these statutory functions are being accomplished.

(e) The performance report shall be published in the form prescribed by the board.

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Chapter 323. TEXAS LEGISLATIVE COUNCIL.

Sec. 323.012. **Assistance from Other Agencies.** [69th Leg., 1985]

(a) The council may request assistance and advice from all state departments or agencies, including the:

(1) attorney general;
(2) Texas State Library; and
(3) State Auditor.

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Chapter 324. LEGISLATIVE REFERENCE LIBRARY.

Sec. 324.001. **Definitions.** [69th Leg., 1985]

In this chapter:

(1) "Library" means the Legislative Reference Library.
(2) "Board" means the Legislative Library Board.
(3) "Director" means the director of the library.

Sec. 324.002. **Establishment.** [69th Leg., 1985]

The Legislative Reference Library is an independent agency of the legislature.

Sec. 324.004. **Legislative Library Board.** [69th Leg., 1985]

(a) The board controls and administers the library.

(b) The board consists of:

(1) the lieutenant governor;
(2) the speaker of the house of representatives;
(3) the chairman of the senate finance committee;
(4) the chairman of the house appropriations committee;
(5) one other member of the senate appointed by the lieutenant governor; and
(6) one other member of the house appointed by the speaker.

(c) Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in attending meetings and performing official functions.

(d) Actual and necessary expenses are paid from funds appropriated to the board.

Sec. 324.005. **Director.** [69th Leg., 1985; Amended 71st Leg., 1989]

(a) The board shall appoint a director to serve at the pleasure of the board.

(b) The board shall set the salary of the director.

Sec. 324.006. **Personnel.** [69th Leg., 1985]

(a) The director, with the approval of the board, may employ professional and clerical personnel.

(b) The board shall set the salaries of the personnel employed by the director.

Sec. 324.007. **Duties.** [69th Leg., 1985]

(a) The library shall be maintained for the use and information of members of the legislature, heads of state departments, and citizens of this state.

(b) The library shall contain, as may best be made available for legislative use, the following items:

(1) checklists and catalogues of current legislation in this and other states;

(2) catalogues of bills and resolutions presented in either house of the legislature;

(3) checklists of public documents in each state;

(4) checklists of all reports issued by each department, agency, board, or commission of this state; and

(5) digests of public laws of this and other states.

(c) The director and library employees shall provide any assistance requested by a member of the legislature in researching and preparing bills and resolutions.

(d) The board shall adopt rules necessary to ensure the library's efficient operation.

Sec. 324.008. **Disposition of Documents.** [69th Leg., 1985]

(a) The library is a depository library as defined by Section 1, Chapter 438, Acts of the 58th Legislature, 1963 (Article 5442a, *Vernon's Texas Civil Statutes*), and shall receive state documents and publications from other states distributed by the Texas State Library.

(b) Each printed daily legislative journal, bill, resolution, or other legislative document shall be delivered daily to the library.

(c) At the close of each legislative session, each daily legislative journal, bill, or resolution possessed by the senate or house sergeant at arms shall be delivered to the library to be disposed of at the discretion of the director.

Sec. 324.009. **Gifts and Grants.** [70th Leg., 1987]

(a) The board may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the board and reported in the public record of the board with the name of the donor and purpose of the gift, grant, or donation.

Chapter 326. COOPERATION BETWEEN LEGISLATIVE AGENCIES.

Sec. 326.001. **Definition.** [69th Leg., 1985; Amended 70th Leg., 1987]

In this chapter, "legislative agency" means:

(1) the senate;

(2) the house of representatives;

(3) a committee, division, department, or office of the senate or house;

(4) the Texas Legislative Council;

(5) the Legislative Budget Board;

(6) the Legislative Reference Library;

(7) the office of the State Auditor; or

(8) any other agency in the legislative branch of state government.

Sec. 326.002. **Provision of Services.** [69th Leg., 1985; Amended 70th Leg., 1987]

(a) A legislative agency may provide administrative, professional, clerical, data processing, and other services to another legislative agency with or without reimbursement and may transfer equipment, supplies, and materials to the other legislative agency with or without reimbursement.

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Title 4. **EXECUTIVE BRANCH.**
Subtitle A. **EXECUTIVE OFFICES.**
Chapter 404 **STATE TREASURER.**
Subchapter F. **State Funds Reform Act.**

Sec. 404.093. **Applicability of Subchapter; Exemptions.** [70th Leg., 1987]

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(b) This subchapter does not apply to:

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(4) funds grants, donations, and proceeds from funds, grants, and donations, given in trust to the Texas State Library and Archives Commission for the establishment and maintenance of regional historical resource depositories and libraries in accordance with Section 441.074;

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Chapter 405. **SECRETARY OF STATE.**
Subchapter B. **Duties.**

Sec. 405.011. **Official Documents.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The secretary of state shall arrange and preserve books, maps, parchments, records, documents, and papers properly deposited in the secretary of state's office and sealed with the state seal.

(b) A copy of an original deposited under this section is as legal and conclusive in evidence in a state court as the original.

(c) On request of the governor, the legislature, or a house of the legislature, the secretary of state shall furnish a copy of an original deposited under this section.

Sec. 405.012. **Exchanges.** [70th Leg., 1987]

(a) The secretary of state shall send, as the secretary of state considers appropriate, copies of laws and judicial reports printed and published by order of the legislature at the expense of the state to:

(1) the librarian of congress;

(2) the United States secretary of state;

(3) the United States secretary of the treasury;

(4) the executive department of each state; and

(5) each foreign librarian or government with whom a system of library exchange is established.

(b) Subject to the requirements of Subsection (c), the secretary of state, for the benefit of The University of Texas law library, shall exchange the reports of the supreme court, court of criminal appeals, and courts of appeals, state session laws and revised statutes, and other state publications and state department reports for similar material of the United States, other states, or foreign countries.

(c) The secretary of state shall keep on hand a sufficient number of copies of state publications to meet the reasonable demands of the state.

Sec. 405.013. **Court Reports.** [70th Leg., 1987]

(a) The secretary of state shall receive the printed and bound volumes of the Supreme Court Reports and the Reports of the Court of Criminal Appeals from the supreme court reporter.

(b) The secretary of state may sell single copies of these reports for a price equal to the contract price for printing, excluding postage or express charges, and, after receiving the price for a volume, may send advance sheets of the volume as publishing progresses.

(c) The secretary of state shall deliver money received from sales under this section to the treasurer and shall make a full statement of the sales in the secretary of state's biennial report.

(d) The secretary of state shall deliver one copy of these reports to:

(1) the governor;

(2) the attorney general;

(3) each appellate and district judge;

(4) each county judge, for the use of the county;

(5) each law professor of The University of Texas; and

(6) the librarian of The University of Texas.

(e) The secretary of state shall deliver to each United States district judge for Texas one copy of these reports for each branch of the judge's court.

(f) The secretary of state may not send more than one copy of a report to a person under Subsection (d) or (e) unless it is proved, as evidenced by certificate of the person requesting the additional copy, that the first copy of the report has been destroyed by fire or rendered valueless by long use.

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Sec. 405.017. **Miscellaneous Duties.** [70th Leg., 1987; Amended 71st Leg., 1989]

The secretary of state shall:

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(3) keep in a separate suitable book a register of all state officers;

(4) immediately on receipt, deliver to the person in charge of the state library all books, maps, charts, printed volumes of the laws of a nation, territory, or another state, or other political or miscellaneous publications received in the secretary of state's office; and

(5) immediately on receipt, deliver to the supreme court librarian reports of courts of a nation, territory, or another state received in the secretary of state's office.

Sec. 405.018. **Computer Information.** [71st Leg., 1989]

(a) The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is:

(1) stored in state computer record banks maintained by the secretary of state;

(2) not classified as confidential under a statute or court decision; and

(3) not maintained by the secretary of state under:

(A) Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, *Vernon's Texas Civil Statutes*);

(B) Title 15, Election Code; or

(C) Chapter 305, Government Code.

(b) The secretary of state may:

(1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office; and

(2) enter agreements to transfer the software on the terms and conditions specified in the agreements.

(c) Computer software developed under Subsection (b) shall be reviewed and certified by the Automated Information and Telecommunications Council.

(d) The secretary of state shall set and charge a fee for access to information under Subsection (a) in an amount reasonable and necessary to cover the costs of establishing and administering the system under that subsection. The secretary of state may assess a reasonable fee for a transfer of software under Subsection (b).

Subtitle D. **HISTORY, CULTURE, AND EDUCATION.**

Chapter 441. **LIBRARY AND ARCHIVES.**

Subchapter A. **Texas State Library And Archives Commission.**

Sec. 441.001. **Commission; Members.** [70th Leg., 1987]

(a) The Texas State Library and Archives Commission is composed of six members appointed by the governor with the advice and consent of the senate.

(b) Members of the commission serve staggered terms of six years.

(c) A person appointed to fill a vacancy serves for the remainder of the term to which that person's predecessor was appointed.

(d) An appointment to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

(e) A person who is required to register as a lobbyist under Chapter 305 may not serve as a member of the commission or act as the general counsel to the commission.

(f) A member or employee of the commission may not be an officer, employee, or paid consultant of a trade association in the library or archival industry but may hold office in a professional archival association.

(g) It is a ground for removal from the commission that a member violates Subsection (e) or (f). The validity of an action of the commission is not affected by the fact that it was taken at a time a ground for removal of a member of the commission existed.

(h) The commission shall be assigned suitable offices in the Capitol area in which the commission shall hold at least one regular meeting annually and as many special meetings as are necessary.

(i) Members of the commission may choose their presiding officers.

(j) While attending a meeting of the commission, a member is entitled to reimbursement for actual expenses incurred in attending the meeting and to a per diem as provided by the General Appropriations Act.

(k) The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, *Vernon's Texas Civil Statutes*), and the Administrative Procedure and Texas Register Act (Article 6252-13a, *Vernon's Texas Civil Statutes*). At an open meeting of the commission, a member of the public is entitled to appear and speak on any issue under the jurisdiction of the commission, within the limits of any reasonable rules of the commission designed to expedite consideration of issues at a meeting.

(l) The commission is subject to the Texas Sunset Act (Chapter 325). Unless continued in existence as provided by that Act, the commission is abolished September 1, 1995.

Sec. 441.002. **Director and Librarian.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The commission shall appoint a director and librarian.

(b) The director and librarian is the executive and administrative officer of the commission and shall discharge the administrative and executive functions of the commission.

(c) To be appointed as the director and librarian, a person must have:

(1) at least two years of training in library science or experience in teaching or research or in a library that is the equivalent of two years of training in library science; and

(2) at least two years of administrative experience in the field of libraries or research or in a related field.

(d) The director and librarian serves at the will of the commission.

(e) The director and librarian shall give bond in the sum of $5,000 for the proper care of the Texas State Library and its equipment.

(f) Based on the sworn account of the director and librarian showing expenses in detail, the director and librarian is entitled to reimbursement for actual expenses incurred when traveling in the service of the commission.

(g) Under the direction of the commission, the director and librarian shall:

(1) record the commission's proceedings;

(2) keep an accurate account of the commission's financial transactions;

(3) have charge of the state library and any book, picture, document, newspaper, manuscript, archive, relic, memento, flag, or similar item contained in the library;

(4) endeavor to collect any manuscript record relating to the history of Texas possessed by a private individual, or if the original record cannot be obtained, endeavor to procure an authenticated copy;

(5) seek diligently to procure a copy of any printed matter, including any book, pamphlet, or map, giving valuable information concerning this state;

(6) collect portraits or photographs of as many prominent Texans as possible;

(7) endeavor to complete the files of early Texas newspapers in the state library and of other publications of this state that seem necessary to preserve in the state library an accurate record of the history of Texas;

(8) demand and receive from the officer of the state department in charge of it, any book, map, paper, manuscript, document, memoranda, or data relating to the history of Texas not connected with or necessary to the current duties of the officer;

(9) carefully classify, catalogue, and preserve any book, map, paper, manuscript, document, memoranda, or data received under Subdivision (8);

(10) endeavor to procure from Mexico the original archives that have been removed from Texas and that relate to the history and settlement of Texas or, if the originals cannot be procured, endeavor to procure authentic copies of the originals;

(11) procure the original of any manuscript relating to the history of Texas that is preserved in an archive outside this state or, if the original cannot be procured, procure an authentic copy of the original;

(12) preserve any historical relic, memento, antiquity, or work of art relating to the history of Texas that comes into the director and librarian's possession as director and librarian;

(13) endeavor constantly to build up a historical museum worthy of the interesting and important history of this state;

(14) give careful attention to the proper classification, indexing, and preserving of the official archives in the director and librarian's custody;

(15) make a biennial report to the commission that is accompanied by any historical papers or documents the director and librarian considers to be of sufficient importance;

(16) ascertain the condition of all public libraries in this state and report the results to the commission;

(17) encourage and promote the establishment of effective records management programs in the local governments of this state;

(18) endeavor to ensure that the historically valuable records of the local governments of this state are properly preserved and made available for public use; and

(19) perform any other duty the commission assigns.

(h) Under the direction of the commission, the director and librarian may:

(1) spend money appropriated for that purpose to purchase any book relating to Texas;

(2) approve the voucher for any expenditure made in connection with the state library; and

(3) withhold from any library a public document furnished the commission for distribution or an interlibrary loan the library desires if the library refuses or neglects to furnish an annual report or other information the librarian requests.

(i) If there is a disagreement as to the proper custody of a book, map, paper, manuscript, document, memorandum, or data under Subsection (g)(8), the attorney general shall decide proper custody.

Sec. 441.003. **Employees.** [70th Leg., 1987]

(a) Subject to the approval of the commission, the director and librarian shall appoint an assistant state librarian, a state archivist, and other assistants and employees necessary for the maintenance of the libraries and archives of this state.

(b) The assistant state librarian has the rank of a department head. In the absence of the director and librarian, the assistant may sign and certify accounts and documents in the same manner and with the same legal authority as the director and librarian. The assistant shall give bond to the governor in the sum of $3,000 and shall take the official oath.

(c) To be eligible for appointment as state archivist, a person must present satisfactory evidence of completion of one year's advance work in American or Southwestern history in a standard college and of a fluent reading knowledge of Spanish and French, but is not required to have technical library school training or library experience to be appointed state archivist.

(d) An assistant other than the assistant state librarian serves in the grade of head of a department, library assistant, clerk, or laborer. To be eligible for appointment as the head of a department, a person must have technical library training and at least one year of experience in library work. To be eligible for appointment as a library assistant, a person must have technical library training. To be eligible for appointment as a clerk, a person must hold a diploma from a high school considered to be first class according to the standards of the State Board of Education or The University of Texas or present satisfactory evidence of educational training equivalent to that provided by a first class high school, and the person must present satisfactory evidence of proficiency in stenography and typewriting or bookkeeping. To be eligible for appointment as a laborer, a person must present satisfactory evidence of education sufficient to do any elementary clerical work required.

Sec. 441.004. **Career Ladder; Performance Evaluations.** [70th Leg., 1987]

(a) The director and librarian or the director and librarian's designee shall develop a career ladder program within the commission. The program must require that openings in all positions except entry level positions be posted within the commission for at least 10 days before they are posted for the public.

(b) The director and librarian or the director and librarian's designee shall develop a system of annual performance evaluations based on measurable job tasks. Merit pay for commission employees must be based on that system.

Sec. 441.005. **Standards of Conduct; Equal Employment Opportunity.** [70th Leg., 1987]

(a) As often as necessary, the commission shall provide to its members and staff information regarding their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The commission shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, age, or national origin. The plan must cover an annual period and must be updated at least annually. The plan must include:

(1) a comprehensive analysis of all employees by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

(3) steps reasonably designed to overcome any identified underuse of minorities and women in the commission's work force; and

(4) objectives and goals, timetables for the achievement of those objectives and goals, and assignments of responsibility for the achievement of the objectives and goals.

(c) Before the expiration of 30 days after April 1 and November 1 of each year, the commission shall submit a progress report to the governor. The report must include a statement of the steps that the commission has taken during the reporting period to comply with the requirements of Subsection (b).

Sec. 441.006. **General Powers and Duties.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The commission shall:

(1) govern the Texas State Library;

(2) adopt policies and rules to aid and encourage the development of and cooperation among all types of libraries, including public, academic, special, and other types of libraries;

(3) collect materials relating to the history of Texas and adjoining states;

(4) preserve, classify, and publish the manuscript archives and other matters it considers proper;

(5) diffuse knowledge relating to the history of Texas;

(6) encourage historical work and research;

(7) mark historic sites and houses and secure their preservation;

(8) aid those studying problems to be dealt with by legislation;

(9) prepare and make available to the general public and appropriate state agencies information of interest to consumers describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission;

(10) deposit in the state treasury money paid to the commission;

(11) give to any person contemplating the establishment of a public library advice regarding matters such as maintaining a public library, selecting books, cataloging, and managing a library;

(12) conduct library institutes and encourage library associations;

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(13) aid and encourage by adoption of policies and programs, the development of effective records management and preservation programs in the local governments of the state; and

(14) adopt rules governing the preservation, microfilming, destruction, or other disposition of local government records.

(b) The commission may:

(1) purchase, as state property, any suitable book, picture, or similar item, within the limits of the annual legislative appropriation;

(2) receive a donation or gift of money or property on any terms and conditions it considers proper as long as the state does not incur financial liability;

(3) accept, receive, and administer federal funds made available by grant or loan to improve the public libraries of this state; and

(4) contract or agree with the governing body or head of a county, city, or town of this state to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries.

Sec. 441.007. **Certification of County Librarians.** [70th Leg., 1987]

(a) The commission shall pass on the qualifications of a person wanting to become a county librarian in this state and shall adopt rules necessary to administer that responsibility.

(b) The educational requirement for permanent certification as a county librarian is:

(1) graduation from a library school accredited by the American Library Association, if the commission determines that the association has accreditation standards that ensure a high level of scholarship from students; or

(2) graduation with a master's degree in library science from an institution of higher education accredited by an organization that the commission determines has accreditation standards that ensure a high level of scholarship from students.

(c) The commission by rule may establish a fee payable by an applicant to recover its costs arising from certification of county librarians.

(d) The commission shall keep an information file about each complaint filed with the commission relating to an individual certified under this section.

(e) The commission shall notify the parties to a written complaint filed with the commission of the status of the complaint at least quarterly until final disposition.

Sec. 441.008. **Transfer or Exchange of Books or Documents.** [70th Leg., 1987]

(a) The commission may transfer a book or document to another library that is supported by state appropriation if the commission believes that the transfer would benefit the state library. The commission may make the transfer permanent or temporary.

(b) If a duplicate book or document is no longer needed by the state library, the commission may exchange the duplicate or may dispose of the duplicate to any state or local public library.

(c) This section does not apply to a book or document that is an archive of the state library.

Sec. 441.009. **State Plan for Library Services and Construction.** [70th Leg., 1987]

(a) The commission may adopt a state plan for improving services of and constructing county, municipal, and other public libraries.

(b) The state library shall prepare the plan for the commission and shall administer the plan the commission adopts.

(c) The plan must include a procedure by which a county or municipal library may apply for money under the plan and a procedure for a fair hearing for a library whose application for money is refused. Money from local, state, or federal sources may be used. The money shall be administered according to local, state, and federal requirements.

Sec. 441.010. **Custody Of Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A book, picture, document, publication, or manuscript received through gift, purchase, or exchange or on deposit, from any source, for use of the state, except an item subject to control of the State Preservation Board, constitutes part of the state library and shall be placed in the state library for use by the public. With the advice of the commission, the State Preservation Board may determine the placement and removal of items in buildings under the board's care.

(b) A book or paper, including a picture, map, document, manuscript, memorandum, or data, that relates to the history of Texas as a province, colony, republic, or state and that is delivered to the director and librarian by an officer or other person, in accordance with law, is considered a book or paper of the state library and constitutes a part of the archives of the state library. On application of an interested person, the director and librarian or archivist of the state library shall make and certify a copy from the archives. That certificate has the same force and effect as if made by the officer originally in custody of it.

(c) As an exception to Subsection (b), the director and librarian or a staff member of the commission may not make a certified copy of a local government record on microfilm obtained by the commission under Section 204.009, Local Government Code, without the consent of the original custodian of the record. Certified copies of local government records in the custody of the commission may be provided without the consent of the original custodian only if the original custodian has not retained the original or a copy of the record or if ordered to provide the copies by a court.

(d) The commission has custody and control of a book, document, newspaper, manuscript, archive, relic, memento, flag, work of art, or similar item and shall collect and preserve historical data.

(e) A state official may turn over to the state library for permanent preservation in the library an official book, record, document, original paper, map, chart, newspaper file, or printed book not in current use in the official's office. The director and librarian shall give the official a receipt for an item turned over under this subsection.

Sec. 441.011. **Relics.** [70th Leg., 1987]

(a) Under conditions and terms of agreement that will ensure the safekeeping of the relics in the Texas Museum, the commission temporarily may place in the custody of the Daughters of the Republic of Texas or the United Daughters of the Confederacy, Texas Division, all or part of the historical relics belonging to the state library.

(b) A transfer under Subsection (a) does not affect the state's title to the relics.

(c) The commission may remove the relics at any time.

Sec. 441.012. **Sale of Texas Archives.** [70th Leg., 1987]

(a) The commission may sell copies of the Texas Archives at a price not exceeding 25 percent above the cost of publishing.

(b) Any money received from the sale of the Texas Archives shall be deposited in the state treasury.

(c) The cost of printing the Texas Archives shall be paid with funds appropriated for that purpose.

(d) A copy of each volume of the Texas Archives may be distributed free to the governor, each member of the legislature, and each public or institutional library of this state.

Sec. 441.013. **Report to Governor.** [70th Leg., 1987]

(a) The commission shall make a biennial report to the governor that includes:

(1) a comprehensive view of the operation of the commission in discharging the duties imposed by this subchapter;

(2) a review of the library conditions in this state;

(3) an itemized statement of the commission's expenditures;

(4) any recommendations suggested by the experience of the commission;

(5) careful estimates of money necessary for carrying out this subchapter; and

(6) the biennial report of the director and librarian required by Section 441.002(g)(15).

(b) The report shall be printed, and the governor shall lay the report before the legislature as the governor does with other departmental reports.

Sec. 441.014. **Audit.** [70th Leg., 1987; Amended 71st Leg., 1989]

The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 441.015. **Seal.** [70th Leg., 1987]

(a) The official seal of the state library is a circle of not less than 1 1/2 nor more than two inches in diameter that bears a star of five points surrounded by two concentric circles between which is printed "Texas State Library."

(b) The seal shall be used to authenticate the official acts of the Texas State Library.

Sec. 441.016. **Building.** [70th Leg., 1987]

The name of the state archives and library building is the Lorenzo de Zavala State Archives and Library Building.

Subchapter B. **Archives Of Certain Agencies.**

Sec. 441.025. **University Archives.** [70th Leg., 1987]

(a) The librarian of The University of Texas and the archivist of the department of history of the university may make a certified copy of any public record in the custody of the university. The certified copy is valid in law and has the same force and effect for all purposes as if certified by the county clerk or other custodian as provided by law.

(b) In making a certificate to a certified copy, the librarian or archivist shall certify that the copy is a true and correct copy of the document and, after signing the certificate, shall swear to that fact before an officer authorized to take oaths under the laws of this state.

Sec. 441.026. **Loan of Archives.** [70th Leg., 1987; Amended 71st Leg., 1989]

A custodian of government records, except for a custodian of local government records, may lend to the library of The University of Texas, for the length of time and on the conditions the custodian determines, any part of the custodian's archives or records that are of mainly historical value. The custodian shall take a receipt for the archive or record from the librarian of the university. The librarian may give a receipt for any archive or record transferred to the library and may make a copy for historical study.

Subchapter C. **Records Management Division Of Texas State Library.**

Sec. 441.031. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this subchapter:

(1) "Department or institution" means any executive, educational, judicial, or eleemosynary state department, institution, board, or commission.

(2) "Head of department or institution" means any appointive or elective official with authority over the records of the department or institution.

(3) "Local government" means a county, municipality, public school district, appraisal district, or any other special-purpose district or authority. The term includes all offices, departments, divisions, programs, commissions, bureaus, boards, or similar entities of those governments and includes, with regard to county government, all county, district, and precinct offices.

(4) "Photographic reproduction" means reproduction by any photographic process and includes reproduction by microprint or by microphotography on film and a positive or negative copy.

(5) "State record" means a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received by a state department or institution according to law or in connection with the transaction of official state business. The term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes, an extra copy of a document preserved only for convenience of reference, or a stock of publications or of processed documents.

Sec. 441.032. **General Powers and Duties of Division.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The Texas State Library and Archives Commission may establish and maintain a records management division in the state library.

(b) The division shall:

(1) manage all state records with the cooperation of the heads of the various departments or institutions in charge of the records; and

(2) operate a photographic laboratory to make photographs, microphotographs, or reproductions on film or to arrange for all or any part of the work to be done by an established commercial agency that meets the specifications established by this section for the proper accomplishment of the work.

Sec. 441.033. **Director of Division.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The commission shall appoint an assistant to serve as the director of the records management division.

(b) To be eligible for appointment as director, a person must have appropriate training and experience in the field of government records management.

Sec. 441.034. **Classification of Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

Under the direction of the records management division and with the cooperation of the heads of departments and institutions, the state records of the departments or institutions shall be surveyed, indexed, and classified.

Sec. 441.035. **Destruction Of Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The director and librarian may transfer, destroy, or otherwise dispose of a state record that has been consigned by law to the custody of the director and librarian, that is more than 10 years old, and that the director and librarian determines to be valueless or of no further use to the state as an official record if the comptroller, state auditor, and attorney general agree with the director and librarian that the preservation of the record is not necessary as evidence and will serve no useful purpose in the future efficient operation of state government. Any record disposed of as agreed must be generally listed and referred to, and each official shall consent to the disposition by subscribing to the list.

(b) The director and librarian may destroy a record of a local government that has been transferred or consigned by law to the custody of the director and librarian if the retention period for the record has expired in a records retention schedule approved according to law. If the record does not appear on a records retention schedule, it may be destroyed if in the judgment of the director and librarian it does not have sufficient historical value to merit retention. An original record of a local government in the custody of the director and librarian may be destroyed before the expiration of its retention period if it is microfilmed or duplicated on electronic media and the microfilm or electronic media meets standards established by the Texas State Library and Archives Commission under Section 204.004 or 205.003, Local Government Code. A notice of the destruction of the records shall be filed among the records of the state library.

(c) Any state record that the director and librarian, comptroller, state auditor, or attorney general considers necessary to preserve may be preserved by microfilming the record if funds are appropriated by the legislature to cover the cost of microfilming for the state or are otherwise available for that purpose. Once microfilmed, an original record may be disposed of in a manner agreed on by the officials. The microfilm copy constitutes an original for all legal purposes.

(d) A state record determined to be no longer needed for the operation of state government or replaced by microfilm copy may be transferred to the archives division of the state library if the director and librarian considers the record to be of historical value.

(e) With the approval of the director and librarian, in accordance with this section, the head of any department or institution may destroy any state record in the custody of the head of the department or institution that, in the opinion of the head of the department or institution, does not have any further legal, administrative, or historical value. Before destroying the state record, the head of a department or institution must file an application to do so with the director and librarian that describes the original purpose and the contents of the state record. In addition, the approval of the state auditor is required in the case of the destruction of a state record of a fiscal or financial nature.

Sec. 441.036. **Destruction of Certain Agencies' Records**. [70th Leg., 1987; Amended 71st Leg., 1989]

(a) An agency listed in Subsection (b) shall:

(1) examine all its books, papers, correspondence, or records dated earlier than 1952 and stored with the records management division;

(2) classify and index its records;

(3) furnish the records management division with a copy of the index that includes a list of records to be preserved;

(4) name a retention period on each record to be stored for a definite time; and

(5) request destruction of any worthless record or material as provided by Section 441.035(d).

(b) This section applies to the state auditor, State Board of Barber Examiners, State Purchasing and General Services Commission, Texas Cosmetology Commission, Texas State Board of Medical Examiners, Board of Pardons and Paroles, Board of Regents, Texas State University System, Texas Department of Licensing and Regulation, comptroller of public accounts, Court of Appeals for the Third Court of Appeals District, governor, Texas Department of Health, State Board of Insurance, Legislative Budget Board, Parks and Wildlife Commission, Railroad Commission of Texas, Texas Real Estate Commission, secretary of state, State Securities Board, Teacher Retirement System of Texas, Central Education Agency, Texas State Library, Texas Water Commission, and the state treasury department.

Sec. 441.037. **Duties of Head of Department or Institution Regarding Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

The head of any department or institution shall:

(1) establish and maintain an active, continuing program for the economical and efficient management of the records of the department or institution;

(2) make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the department or institution designed to furnish information to protect the legal and financial rights of the state and of any person directly affected by activities of the department or institution;

(3) submit to the director of the records management division, in accordance with standards established by the director, schedules proposing the length of time after being adopted or received by the department or institution each state records series should be retained for administrative, legal, or fiscal purposes;

(4) submit a list of any state records in the custody of the head of the department or institution that do not have sufficient administrative, legal, or fiscal value to warrant retention and that are to be disposed of in accordance with Section 441.035; and

(5) act as or appoint an employee of the department or institution performing other administrative duties to act as a records administrator of the department or institution and, in that role, to comply with the rules, standards, and procedures issued by the director of the records management division.

Sec. 441.038. **Photographic Reproductions.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) On request of the head of a department or institution, or on the director and librarian's own initiative with the consent of the head of the department or institution, the director and librarian may provide for making photographic reproductions of the state records of the department or institution. State records are open to the director and librarian for that purpose.

(b) Any photographic reproduction of a state record made by microprint or by microphotography on film must comply with the minimum standards of quality approved for permanent photographic records by the National Bureau of Standards.

(c) Any device used to reproduce a state record must accurately reproduce the original record in detail.

(d) The director and librarian may make photographic reproductions for public use as follows:

(1) free of charge for official use of a department or institution;

(2) for a fee to cover costs for official use of a local government; or

(3) for standard commercial rates fixed by the director and librarian for private use.

(e) Any money the state library receives in payment for charges for photographic reproduction shall be deposited in the state treasury.

(f) A state official may designate a photographic reproduction of a state record in the officer's office as an original record for all legal purposes, even though the record is current. The officer may transfer the replaced record to the director and librarian, who shall issue a receipt for the record. The director and librarian, with the consent of the state auditor, may further transfer or destroy the transferred record. Copies, in any form, of a photographic reproduction that has been designated an original record and certified or authenticated according to the law may be introduced in evidence.

Sec. 441.039. **Auditor Reports on Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

The state auditor may include in an audit report of a state agency:

(1) the degree to which an agency has complied with record disposal instructions and transfer agreements to reduce filing space and equipment required to store records;

(2) the date on which records last were reviewed for transfer or disposal; and

(3) any revisions required in scheduled transfer and disposal dates.

Subchapter D. **Preservation Of Essential Records.**

Sec. 441.051. **Short Title.** [70th Leg., 1987]

This subchapter may be cited as the Preservation of Essential Records Act.

Sec. 441.052. **Definitions.** [70th Leg., 1987]

In this subchapter:

(1) "Agency" means a state executive, judicial, legislative, or eleemosynary department, institution, board, or commission.

(2) "Departmental records supervisor" means a person having authority over a department's records.

(3) "Disaster" means a natural or man-made occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage, or other condition of extreme peril resulting in substantial damage or injury to persons or property in this state.

(4) "Essential record" means written or graphic material that is made or received by an agency in the conduct of official state business and that is filed or intended to be preserved permanently or for a definite period as a record of that business.

(5) "Preservation duplicate" means a copy of an essential record used to preserve the record.

Sec. 441.053. **Records Management and Preservation Advisory Committee.** [70th Leg., 1987]

(a) The Records Management and Preservation Advisory Committee is composed of:

(1) each of the following officers or the officer's designee:

(A) the secretary of state;

(B) the state auditor;

(C) the comptroller of public accounts;

(D) the attorney general;

(E) the state archivist; and

(F) the executive director of the State Purchasing and General Services Commission; and

(2) the executive head or, if the executive head chooses, the departmental supervisor of:

(A) the Texas Department of Human Services;

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(B) the Texas Department of Mental Health and Mental Retardation;

(C) the Texas Department of Health;

(D) the Department of Public Safety;

(E) the Central Education Agency; and

(F) the State Board of Insurance.

(b) The committee shall select its presiding officers.

(c) A member of the committee is not entitled to compensation for performing the work of the committee but is entitled to reimbursement for actual expenses incurred in performing that work.

(d) The committee shall recommend improvements to the state's system of records management. The committee shall submit its recommendations before March 2 of each even-numbered year in a report to the Texas State Library and Archives Commission, the Legislative Budget Board, the budget division of the governor's office, the lieutenant governor, and the speaker of the house of representatives. The report must include an evaluation of savings that would result from the implementation of the recommendations.

Sec. 441.054. **Records Preservation Officer**. [70th Leg., 1987]

The director of the records management division is the records preservation officer. The records preservation officer shall adopt rules concerning the selection and preservation of essential records as necessary and proper to carry out the purpose of this subchapter.

Sec. 441.055. **Bond**. [70th Leg., 1987]

The director and librarian and the records preservation officer each shall execute and file with the secretary of state a good and sufficient bond, payable to the state, in an amount set by the committee consistent with the person's duties, and conditioned on the faithful performance of those duties.

Sec. 441.056. **Categories of Essential Records**. [70th Leg., 1987]

Essential records in the following categories shall be preserved:

(1) Category A—Records containing information necessary to the operation of government in an emergency created by a disaster; and

(2) Category B—Records to protect the rights and interests of individuals or to establish and affirm the powers and duties of government in the resumption of operation after a disaster.

Sec. 441.057. **Selection of Records**. [70th Leg., 1987]

(a) Each agency shall select the state records that are essential to carry out its work and shall determine the category of each record.

(b) Each departmental records supervisor, according to the rules adopted by the records preservation officer, shall:

(1) inventory the state records in the departmental records supervisor's custody or control;

(2) submit to the records preservation officer a report on the inventory containing, in addition to the information required by the rules, specific information showing which records are essential; and

(3) periodically review the inventory and report and if necessary revise the report so that it is current, accurate, and complete.

Sec. 441.058. **Preservation Duplicates.** [70th Leg., 1987]

(a) The records preservation officer shall make preservation duplicates or shall designate as preservation duplicates existing copies of essential state records. A preservation duplicate made by means of photography, microphotography, photocopying, or microfilm must be made according to standards that the records preservation officer prescribes in conformity with the rules of the United States Bureau of Standards.

(b) A preservation duplicate made by a process that accurately reproduces or forms a durable medium for accurately reproducing the original record has the same force and effect for all purposes as the original record, regardless of whether the original record exists. A transcript, exemplification, or certified copy of such a preservation duplicate is for all purposes a transcript, exemplification, or certified copy of the original record.

Sec. 441.059. **Storage.** [70th Leg., 1987]

(a) The records preservation officer shall prescribe the place and manner of safekeeping of essential records or preservation duplicates and shall establish storage facilities for the records and duplicates. At least one copy of each essential record and a duplicate seal of the state shall be stored in the safest possible location in facilities constructed to withstand blast, fire, water, and other destructive forces. The facilities must be in a place other than the legally designated or customary storage location for the records or duplicates. The records preservation officer shall properly maintain essential records and preservation duplicates that the records preservation officer stores.

(b) The regularly designated custodian of an agency record or preservation duplicate stored by the records preservation officer may recall the record or duplicate for temporary use as necessary for the proper conduct of an agency. The custodian shall return the record or duplicate to the records preservation officer immediately after the use.

(c) On request of the regularly designated custodian of an essential record stored by the records preservation officer, the records preservation officer shall provide the record for inspection or the making of certified copies. Copies certified by the records preservation officer have the same force and effect as if certified by the regularly designated custodian.

Sec. 441.060. **Confidentiality**. [70th Leg., 1987]

The departmental records supervisor shall label as confidential a state record that is required by law to be treated in a confidential manner. The records preservation officer and the officer's staff shall protect the confidential nature of a labeled record. An employee who fails in this responsibility shall be dismissed from the employee's duties and may not hold another state appointment.

Sec. 441.061. **Review.** [70th Leg., 1987]

At least once every two years the records preservation officer and the committee shall review the entire program established by this subchapter.

Sec. 441.062. **State Auditor's Report of Compliance.** [70th Leg., 1987]

In the audit of an agency the state auditor shall report on the agency's compliance with this subchapter.

Subchapter F. **Maintenance And Disposition Of Certain County Records.**

Sec. 441.091. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this subchapter:

(1) "County record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a county or precinct or any county or precinct officers or employees, including the district clerk, pursuant to law, including an ordinance or order of the commissioners court of the county, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by county or precinct officers or employees;

(B) notes, journals, diaries, and similar documents created by a county or precinct officer or employee for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display; or

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, *Vernon's Texas Civil Statutes*), or other state law.

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Sec. 441.094. **Records Schedule and Implementation Plan.** [70th Leg., 1987; Amended 71st Leg., 1989]

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(b) A records schedule must:

(1) contain a list by record title of the county records to be scheduled; and

(2) prescribe a minimum retention period for each record that is at least as long as that prescribed by law or the county records manual or state that a retention period for the record will be assigned later.

(c) A records schedule may:

(1) contain a list of all of the county records kept by the custodian or a list of only those records to be scheduled; and

(2) contain a list of material that is excluded from the definition of county record by Section 441.091 and that is kept by the custodian, with retention periods assigned by the custodian.

(d) A custodian may amend a records schedule or implementation plan.

(e) A records schedule, implementation plan, or amendment takes effect when the custodian files a certified copy of the schedule, plan, or amendment in the office of the county clerk and with the director and librarian.

Sec. 441.0945. **Disposition of Scheduled Records.** [71th Leg., 1989]

(a) A county record may be destroyed if the record is listed on the records schedule and implementation plan accepted for filing by the director and librarian and either its retention period has expired or it has been microfilmed or stored electronically in accordance with applicable law.

(b) The director and librarian or a person on the staff of the director and librarian may reject the records schedule and implementation plan for a record if the retention

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period of the record as listed on the plan is less than the retention period for the record established by the county records manual. If the plan is rejected, the director and librarian or staff person shall file with the custodian the rejected schedule and a statement of the reasons for rejection not later than the 30th day after the date the director and librarian or staff person received the records schedule and implementation plan. If a schedule is rejected under this subsection, the custodian may submit an amended schedule.

(c) The director and librarian or a person on the staff of the director and librarian may condition acceptance of the records schedule and implementation plan on the transfer of a record listed on the schedule to the custody of the Texas State Library when the retention period for the record has expired.

Sec. 441.095. **Disposition of Unscheduled Records.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A custodian may dispose of a county record that is not listed on an approved records schedule and implementation plan if, not later than 60 days before the date that the record is destroyed, the custodian gives written notice of the intent to destroy the record to the director and librarian. The notice must sufficiently describe the record to enable the director and librarian to determine if the record has been assigned a minimum retention period.

(b) Not later than the 30th day after the date the director and librarian receives notice, the director and librarian shall:

(1) notify the custodian of the approval or disapproval of the intended disposition;

(2) request any additional information required by the director and librarian to evaluate the record; or

(3) request that the record or a part of the record be transferred to the Texas State Library for preservation in a regional historical resource depository.

(c) The custodian shall comply with the request or notice of the director and librarian or withdraw the notice of intent to destroy the record.

(d) Not later than the 10th day before a record is destroyed, the custodian shall file and record a notice with the county clerk. The notice must indicate the record to be destroyed, how it is to be destroyed, and the date of its destruction. On the day the notice is filed, the county clerk shall post a copy of it in the same manner that a notice of a meeting is posted under Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, *Vernon's Texas Civil Statutes*).

(e) The custodian may destroy the record at any time after the director and librarian has approved the destruction and the notice required by Subsection (d) has been posted for 10 days by the county clerk.

(f) A county record may be destroyed only by sale or donation for recycling purposes, shredding, burning, burial in a landfill, or pulping.

(g) A person is not civilly liable for destruction of a record in accordance with this subchapter.

Subchapter G. **State Publications.**

Sec. 441.101. **Definitions.** [70th Leg., 1987]

In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Depository library" means the Texas State Library, the Legislative Reference Library, the Library of Congress, the Center for Research Libraries, or any other library that the commission designates as a depository library.

(3) "State agency" means a state office, officer, department, division, bureau, board, commission, legislative committee, authority, institution, substate planning bureau, university system, institution of higher education as defined by Section 61.003, Education Code, or a subdivision of one of those entities.

(4) "State publication" means printed matter that is produced in multiple copies by the authority of or at the total or partial expense of a state agency, including a publication sponsored by or purchased for distribution by a state agency or released by a research firm, consulting firm, or other similar private institution under contract with a state agency. The term does not include correspondence, an interoffice memorandum, or a routine form.

Sec. 441.102. **Distribution of State Publications.** [70th Leg., 1987]

The commission by rule shall establish procedures for the distribution of state publications to depository libraries and for the retention of those publications. The commission may enter into a contract with a depository library under which the depository library receives all or part of the state publications that are distributed.

Sec. 441.103. **State Agency Duties.** [70th Leg., 1987]

(a) A state agency shall designate one or more staff persons as agency publications contact persons and shall notify the Texas State Library of those persons' identities. A publications contact person monthly shall furnish to the Texas State Library a list of all of the agency's state publications that were produced during the preceding month.

(b) A state agency shall furnish its state publications to the Texas State Library in the number specified by commission rules. On the printing of or awarding of a contract for the printing of a publication, a state agency shall arrange for the required number of copies to be deposited with the Texas State Library. The commission may not require more than 75 copies of a state publication.

Sec. 441.104. **Duties of Texas State Library.** [70th Leg., 1987]

The Texas State Library shall:

(1) acquire, organize, and retain state publications;

(2) collect state publications and distribute them to depository libraries;

(3) establish a microform program for the preservation and management of state publications and make available state publications in microform to depository libraries and other libraries at a reasonable cost;

(4) periodically issue a list of all state publications that it has received to all depository libraries and other libraries on request;

(5) catalog, classify, and index all state publications that it receives and distribute the cataloging, classification, and indexing information to depository libraries and to other libraries on request; and

(6) ensure that state publications are fully represented in regional and national automated library networks.

Sec. 441.105. **Exempt Publications.** [70th Leg., 1987]

The director and librarian may specifically exempt a publication from this subchapter.

Sec. 441.106. **Payment for Printing of State Publications.** [70th Leg., 1987]

If a state agency's printing is done by contract, an account for the printing may not be approved and a warrant may not be issued unless the agency first furnishes to the State Purchasing and General Services Commission a receipt from the state librarian for the publication or a written waiver from the state librarian exempting the publication from this subchapter.

Subchapter H. **Reading Devices For Visually Handicapped Persons.**

Sec. 441.111. **Definitions.** [70th Leg., 1987]

In this subchapter:

(1) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(2) "Public library" means a library that is operated by a single public agency or board and that is freely open to all persons under identical conditions and receives part of its financial support from public funds.

(3) "Reading device" means a small computer that has an optical scanner that converts written words into synthetic speech.

(4) "State library" means the Texas State Library.

Sec. 441.112. **Placement of Reading Devices in Public Libraries.** [70th Leg., 1987]

Except as provided by Section 441.116, a public library in a city with a population of at least 50,000 shall provide a reading device for use by blind and visually handicapped persons. The public library shall place the reading device in the branch of the public library that is most easily accessible to the majority of the blind and visually handicapped persons expected to use the device.

Sec. 441.113. **Placement of Reading Devices in College Libraries.** [70th Leg., 1987]

Except as provided by Section 441.116, an institution of higher education in which at least two blind students are enrolled shall provide a reading device for use in its library by blind and visually handicapped individuals. The institution shall place the reading device in the library that is most easily accessible to the majority of the blind and visually handicapped individuals expected to use the device.

Sec. 441.114. **State Library Assistance.** [70th Leg., 1987]

(a) From funds appropriated for the purpose, the state library shall acquire and supply a reading device to each library required to have a device under Section 441.112 or 441.113 at no cost to the receiving library. The state library shall pay the costs of maintaining the device for two years after the date that the library receives the device. After the expiration of the two-year period, the library having the device shall pay the costs of maintenance.

(b) If a library determines that it is not financially able to pay maintenance costs that it is required to pay, the library may apply to the state library for an exemption from the requirements of Section 441.112 or 441.113. If the state library determines that the library is not able to maintain the reading device properly and that the lack of maintenance will result in the deterioration of the device, the state library shall grant the exemption and reclaim the reading device.

(c) The state library shall distribute a reading device reclaimed under Subsection (b) to a public library that requests a reading device, regardless of whether this subchapter requires the library to have a reading device, or to an institution of higher education that requests an additional reading device. In making this distribution the state library shall give priority to a library or institution that demonstrates the greatest need for the device.

Sec. 441.115. **Training, Maintenance, and Information.** [70th Leg., 1987]

(a) The state library shall provide training in the use of a reading device to:

(1) library employees in a public library provided a reading device under this subchapter; and

(2) library employees on the campus of each institution of higher education provided a reading device under this subchapter, if the institution requests training assistance.

(b) The state library shall develop guidelines for the use and maintenance of a reading device provided under this subchapter.

(c) The state library shall contract with an organization for blind and visually handicapped persons to develop and publicly distribute information regarding the locations and use of reading devices provided under this subchapter.

Sec. 441.116. **Funding.** [70th Leg., 1987]

The requirements of this subchapter for the provision and placement of reading devices by the state library, public libraries, and institutions of higher education are contingent on adequate appropriations to the state library for the purchase and maintenance of the devices.

Subchapter I. **Library Systems.**

Sec. 441.121. **Short Title.** [70th Leg., 1987]

This subchapter may be cited as the Library Systems Act.

Sec. 441.122. **Definitions.** [70th Leg., 1987]

In this subchapter:

(1) "Accreditation of libraries" means the evaluation and rating of public libraries and library systems according to commission accreditation standards.

(2) "Accreditation standards" means the criteria established by the commission that a library must meet to be accredited and eligible for membership in a major resource system.

(3) "Area library" means a medium-sized public library serving a population of 25,000 or more that has been designated as an area library by the commission and is a member of a library system interrelated to a major resource center.

(4) "Commission" means the Texas State Library and Archives Commission.

(5) "Community library" means a small public library serving a population of less than 25,000 that is a member of a library system interrelated to a major resource center.

(6) "Governing body" means the body having power to authorize a library to join, participate in, or withdraw from a library system.

(7) "Interlibrary contract" means a written agreement between two or more libraries to cooperate, consolidate, or receive one or more services.

(8) "Library board" means the body that has the authority to give administrative direction or advisory counsel to a library or library system.

(9) "Library system" means two or more public libraries cooperating in a system approved by the commission to improve library service and to make their resources accessible to all residents of the area the libraries serve.

(10) "Major resource center" means a large public library serving a population of 200,000 or more within 4,000 or more square miles that is designated as the central library of a major resource system for referral service from area libraries in the system, for cooperative service with other libraries in the system, and for federated operations with other libraries in the system.

(11) "Major resource system" means a network of library systems attached to a major resource center, consisting of area libraries joined cooperatively to the major resource center and of community libraries joined cooperatively to area libraries or directly to the major resource center.

(12) "Public library" means a library that is operated by a single public agency or board, that is freely open to all persons under identical conditions, and that receives its financial support in whole or part from public funds.

(13) "Regional library system" means a network of library systems established under this subchapter.

(14) "State library system" means a network of library systems, interrelated by contract, for the purpose of organizing library resources and services for research, information, and recreation to improve statewide library service and to serve collectively the entire population of the state.

Sec. 441.123. **Establishment of State Library System.** [70th Leg., 1987]

The commission shall establish and develop a state library system.

Sec. 441.124 **Advisory Board.** [70th Leg., 1987]

(a) The commission shall appoint an advisory board composed of five librarians qualified by training, experience, and interest to advise the commission on the policy to be followed in applying this subchapter.

(b) The term of office of a board member is three years.

(c) The board shall meet a least once a year. The commission may call other meetings during the year.

(d) A member of the board serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(e) A vacancy shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

(f) A member may not serve more than two consecutive terms.

Sec. 441.125. **Plan of Service.** [70th Leg., 1987]

The director and librarian shall submit an annual plan for the development of the state library system for review by the advisory board and approval by the commission.

Sec. 441.126. **Authority to Establish Major Resource Systems.** [70th Leg., 1987]

The commission may establish and develop major resource systems in conformity with the plan for a state library system as provided by this subchapter.

Sec. 441.127. **Membership in System.** [70th Leg., 1987]

(a) To be eligible for membership in a major resource system a library must be accredited by the commission as having met the accreditation standards established by the commission.

(b) To meet population change, economic change, and changing service strengths of member libraries, a major resource system may be reorganized, merged with another major resource system, or partially transferred to another major resource system by the commission with the approval of the majority of the appropriate governing bodies of the libraries comprising the system. A regional library system may be reorganized, divided, dissolved, or merged into another regional library system in a manner provided by bylaws of the corporation operating the system or by contract between the member libraries and the managing authority of the system.

(c) The governing body of a public library that proposes to become a major resource center shall submit to the director and librarian an initial plan of service for the major resource system and annually after the library becomes a major resource center shall submit a plan of system development made in consultation with the advisory council.

Sec. 441.128. **Operation and Management.** [70th Leg., 1987]

(a) Governing bodies within a major resource system area or regional library system area may join in the development, operation, and maintenance of the system and appropriate and allocate funds for its support.

(b) Governing bodies of political subdivisions of the state may negotiate separately or collectively a contract with the governing bodies of member libraries of a major resource system or regional library system for all library services or for those services defined in the contract.

(c) On petition of 10 percent of the persons qualified to vote in the most recent general election of a county or municipality within a major resource system service area or a regional library system service area, the governing body of that political subdivision shall call an election to vote on the question of whether or not the political subdivision shall establish contractual relationships with the system.

(d) The governing body of a major resource center, the governing body or managing authority of a regional library system, and the commission may enter into agreements with the governing bodies of other libraries, including other public libraries, school libraries and media centers, academic libraries, technical information and research libraries, or systems of those libraries, to provide or receive specialized resources and services. The commission shall coordinate and encourage the dissemination of specialized resources and services and may adopt rules for the contracts and agreements authorized by this subsection.

Sec. 441.129. **Withdrawal From System.** [70th Leg., 1987]

(a) The governing body of a political subdivision of the state may by resolution or ordinance withdraw from a major resource system. The governing body must give notice of withdrawal not later than the 90th day before the end of the state fiscal year.

(b) The provision for termination of all or part of a major resource system does not prohibit revision of the system by the commission, with the approval of the majority of the appropriate governing bodies, by reorganization, by transfer of part of the system, or by merger with other systems.

Sec. 441.130. **Advisory Council.** [70th Leg., 1987]

(a) Each major resource system has an advisory council composed of six lay members representing the member libraries of the system.

(b) The governing body of each member library of the system shall elect or appoint a representative to elect council members. The representatives shall meet following their selection and shall elect the initial council from their group. The representatives in an annual meeting shall elect members of their group to fill council vacancies caused by expiration of terms of office. Other vacancies shall be filled for the unexpired term by the remaining members of the council. At all times one member of the council must be a representative of the major resource center.

(c) The term of office of a council member is three years, except that the initial members shall draw lots for terms, two to serve one-year terms, two to serve two-year terms, and two to serve three-year terms. An individual may not serve more than two consecutive terms.

(d) The council shall elect a chairman, vice-chairman, and secretary.

(e) The council shall meet at least once a year. Other meetings may be held as often as is required to transact necessary business. The council shall report business transacted at each meeting to all member libraries of the system.

(f) The members of the council serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(g) The council shall serve as a liaison agency between the member libraries and their governing bodies and library boards to:

(1) advise in the formulation of the annual plan for service to be offered by the system;

(2) recommend policies appropriate to services needed;

(3) evaluate services received;

(4) counsel with administrative personnel; and

(5) recommend functions and limitations of contracts between cooperating agencies.

(h) The functions of the advisory council do not diminish the powers of a local library board.

Sec. 441.131. **Regional Library System.** [70th Leg., 1987]

(a) The governing bodies of two-thirds of the member libraries of a major resource system may elect, for the purpose of administering the receipt and dispersal of services under this subchapter within their area, to form a regional library system that includes all libraries that are members of the major resource system.

(b) Governing bodies of libraries within a regional library system may establish a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., *Vernon's Texas Civil Statutes*) to administer the system or may contract with a private business to administer the system. If the governing bodies form a nonprofit corporation, they may select a board of directors and adopt bylaws for the corporation. Bylaws adopted or a contract executed under this section may provide for funding and participation by other libraries. Bylaws may provide for reorganization, merger, division, and dissolution.

Sec. 441.132. **Major Resource Centers.** [70th Leg., 1987]

(a) The commission may designate major resource centers from existing public libraries according to criteria approved by the commission and agreed to by the governing body of the library involved. The governing body of a library designated as a major resource center may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(b) The commission may revoke the designation of a major resource center that ceases to meet the criteria for a major resource center or that fails to comply with obligations stated in the resolution or ordinance agreements. The commission shall provide a fair hearing on request of the major resource center.

(c) Funds allocated by governing bodies contracting with the major resource center and funds contributed from state grants for the purposes of this subchapter shall be deposited with the governing body operating the major resource center following procedures agreed to by the contributing agency.

(d) The powers of the governing board of the major resource center do not diminish the powers of local library boards.

Sec. 441.133. **Area Libraries.** [70th Leg., 1987]

(a) The commission may designate area libraries within each major resource system service area to serve the surrounding area with library services for which

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interlibrary contracts are made with participating libraries. Area libraries may be designated only from existing public libraries and on the basis of criteria approved by the commission and agreed to by the governing body of the library involved. The governing body of a library designated as an area library may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(b) The commission may revoke the designation of an area library that ceases to meet the criteria for an area library or fails to comply with obligations stated in the resolution or ordinance agreement. The commission shall provide a fair hearing on request of the major resource center or area library.

(c) Funds allocated by governing bodies contracting with the area library and funds contributed from state grants for the purposes of this subchapter shall be deposited with the governing body operating the area library following procedures agreed to by the contributing agency.

Sec. 441.134. **Community Libraries.** [70th Leg., 1987]

(a) Community libraries accredited by the commission are eligible for membership in a major resource system. A community library may join a system by resolution or ordinance of its governing body and execution of interlibrary contracts for service.

(b) The commission may terminate the membership of a community library in a system if the community library loses its accreditation by ceasing to meet the minimum standards established by the commission or fails to comply with obligations stated in the resolution or ordinance agreement.

Sec. 441.135. **Grants.** [70th Leg., 1987]

(a) The commission shall establish a program of state grants within the limitations of funds appropriated by the legislature.

(b) The program of state grants shall include one or more of the following:

(1) system operation grants, to strengthen major resource system services to member libraries and regional library system services to member libraries, including grants to reimburse other libraries for providing specialized services to major resource systems and regional library systems;

(2) incentive grants, to encourage libraries to join together into larger units of service in order to meet criteria for major resource system membership or regional library system membership;

(3) establishment grants, to help establish libraries that will qualify for major resource system membership or regional library system membership in communities without library service; and

(4) equalization grants, to help libraries in communities with relatively limited taxable resources to meet criteria for major resource system membership or regional library system membership.

Sec. 441.136. **Rules.** [70th Leg., 1987]

(a) The director and librarian, with the advice of the advisory board, shall propose initial rules necessary to the administration of the program of state grants, including qualifications for major resource system membership. The proposed rules shall be published in the official publication of the Texas State Library with notice of a public hearing before the commission on the proposed rules to be held on a specified date not less than 30 nor more than 60 days after the date of the publication.

(b) After the public hearing, the commission shall adopt the proposed rules or return them to the director and librarian with recommendations for change. If the commission returns the proposed rules to the director and librarian with recommendations for change, the director and librarian shall consider the recommendations for change in consultation with the advisory board and resubmit the proposed rules to the commission for its adoption.

(c) Revised rules shall be adopted under the same procedure provided in this subchapter for the adoption of the initial rules.

(d) The commission shall include requirements in its rules to ensure that both the population served and the constituent member libraries are adequately represented in the conduct of system business related to activities involved in the development of a plan of service and adequately represented on each major resource system advisory council. Rules adopted as required by this subsection do not apply to the governing board or board of directors of a regional library system governed by applicable requirements of the Texas Business Corporation Act or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., *Vernon's Texas Civil Statutes*).

(e) The commission shall include in its rules provisions necessary to ensure that title to library materials and equipment that have a cost for each unit of less than $300 and that are purchased with funds appropriated under this subchapter is held by the library for which the materials and equipment were purchased, and that title to materials and equipment that have a cost for each unit of $300 or more is held by the Texas State Library.

Sec. 441.137. **Administration.** [70th Leg., 1987]

The director and librarian shall administer the program of state grants and shall make public the rules adopted by the commission.

Sec. 441.138. **Funding.** [70th Leg., 1987]

(a) The commission may use funds appropriated by the legislature for personnel and other administrative expenses necessary to carry out the provisions of this subchapter.

(b) Libraries and library systems may use state grants for materials, personnel, equipment, administrative expenses, and financing programs that enrich the services and materials offered a community by its public library. State grants may not be used for site acquisition, construction, acquisition of buildings, or payment of past debts.

(c) State aid to a free tax-supported public library is a supplement to and not a replacement of local support.

(d) Twenty-five percent of system operation grants shall be apportioned equally among the major resource systems and regional library systems that are operating under commission-approved programs of services, budgets, and bylaws or contracts, and the remaining 75 percent of these grants shall be apportioned among those systems on a per capita basis determined by the most recent decennial census or the most recent official population estimate of the U.S. Department of Commerce, Bureau of the Census.

[Note: At the time of printing this publication the statute contains two Subchapter J's, each beginning with section 441.151.]

Subchapter J. **Reduction And Simplification Of Agency Paperwork.**

Sec. 441.151. **Definitions.** [71st Leg., 1989]

In this chapter:

(1) "Agency" means a state executive, judicial, legislative, or eleemosynary department, institution, board, or commission.

(2) "Committee" means the Records Management and Preservation Advisory Committee created under Section 441.053.

Sec. 441.152. **Committee Powers and Duties.** [71st Leg., 1989]

(a) The committee shall make recommendations relating to the reduction and simplification of paperwork generated by agencies in the performance of their functions.

(b) In performing its duties under Subsections (a), the committee shall develop a plan for:

(1) the reduction and simplification of agency paperwork; and

(2) the analysis and classification of forms used by agencies.

Sec. 441.153. **Report.** [71st Leg., 1989]

In the report submitted by the committee under Section 441.053(d), the committee shall include recommendations relating to the reduction and simplification of state paperwork, including proposals for legislation as necessary to implement the recommendations.

Sec. 441.154. **Agency Cooperation.** [71st Leg., 1989]

Each agency shall fully cooperate in the implementation of this subchapter. The agency shall analyze and classify the forms used by the agency with the objective being form simplification and overall reduction of paperwork in accordance with the plan developed by the committee.

Sec. 441.155. **Review.** [71st Leg., 1989]

The records preservation officer and the committee shall review the plan created under this subchapter at least once every two years.

Subchapter J. **Preservation And Management Of Local Government Records.**

Sec. 441.151. **Definitions.** [71st Leg., 1989]

In this chapter:

(1) "Commission" means the Texas State Library and Archives commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Depository" means a regional historical resource depository established under Section 441.153.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Historical resource" means a book, publication, newspaper, manuscript, paper, document, memorandum, record, map, artwork, photograph, microfilm, sound recording, or other material of historical interest or value, including a local government record of permanent value transferred to the custody of the commission under Subtitle C, Title 6, Local Government Code.

(7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display; or

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, *Vernon's Texas Civil Statutes*), or other state law.

(9) "Permanent record" or "record of permanent value" means any local government record whose retention period on a records retention schedule issued by the commission is given as permanent.

(10) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(11) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025, Local Government Code, as the records management officer.

(12) "Research center" means a regional research center established under Section 441.154.

(13) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 441.152. **Duties and Responsibilities of the Director and Librarian.** [71st Leg., 1989]

The director and librarian shall:

(1) carry out the duties and responsibilities of the commission relating to the management and preservation of local government records imposed by this subchapter and Subtitle C, Title 6, Local Government Code;

(2) administer the regional historical depository system and regional research centers the establishment of which is provided for by this subchapter and provide additional assistance through publications and other means to persons wishing to use local government records for historical and other research purposes;

(3) provide assistance, information, and training to records management officers and custodians of local government records in fulfilling their responsibilities under Subtitle C, Title 6, Local Government Code;

(4) work with other state agencies in seeking methods to assist and encourage local governments and the custodians of local government records in the establishment and operation of efficient and economical records management programs, in reducing paperwork required of local governments by the state, and in preserving records of historical value;

(5) establish and administer a clearinghouse for information relating to all aspects of the management and preservation of local government records; and

(6) assist local governments in seeking grants from federal, state, and private foundations, agencies, or organizations for records management and preservation activities.

Sec. 441.153. **Regional Historical Resource Depositories.** [71st Leg., 1989]

(a) To provide for an orderly, uniform statewide system for the professional retention and preservation of historical resources in the region of their origin or interest, the commission may enter into an agreement with a public or private library or archives to serve as a regional historical resource depository.

(b) The commission shall adopt rules that:

(1) establish standards that an institution must meet in order to qualify for designation as a depository;

(2) prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a depository; and

(3) establish other policies as the commission considers necessary to ensure the effective administration of the system of depositories.

(c) An agreement under Subsection (a) may not include any provision that limits the authority of the commission to adopt or amend rules under Subsection (b).

(d) The commission shall determine the region to be served by a depository. An agreement may not limit the authority of the commission to change the boundaries of a region at its discretion.

(e) The commission may place a staff member at a depository to care for historical resources deposited there by the commission and to perform other duties imposed on the commission and the director and librarian by this subchapter and Subtitle C, Title 6, Local Government Code, but an agreement may not limit the power of the commission to transfer a staff member to a duty station at times as it considers advisable.

(f) Title to historical resources placed in a depository by the commission remains with the commission, and the historical resources may not be intermingled with other holdings of the institution that serves as a depository.

Sec. 441.154. **Regional Research Centers.** [71st Leg., 1989]

(a) To provide additional methods for the preservation of the historical resources of the state in the region of their origin or interest and to provide additional methods of carrying out the other responsibilities placed on the commission by this subchapter and Subtitle C, Title 6, Local Government Code, the commission may establish and operate regional research centers in accordance with this section.

(b) The commission may accept on behalf of the state land and buildings that meet criteria established by the commission as suitable sites or buildings for a regional research center.

(c) The commission may solicit, accept, or collect and may administer for any purpose related to the construction, purchase, remodeling, operation, equipping, staffing, and maintenance of a regional research center or for the operation of any other program of the commission relating to the management and preservation of local government records:

(1) federal, state, local government, or private funds made available by grant; or

(2) gifts of money or real or personal property from donors.

(d) If acceptable to the commission, a donor may specify that donated money or property be used for specific purchases or projects related to the purposes described by Subsection (c).

(e) The commission may keep outside the state treasury in a separate bank depository that the commission designates any money collected under Subsection (c). The money is not subject to legislative appropriation and may be used only for the purposes described by Subsection (c).

(f) If real or personal property is donated to and accepted by the commission specifically for the purpose of sale or lease to provide funds for any of the purposes described by Subsection (c), the commission may proceed with the sale or lease. In converting donated property to money, the commission may execute bills of sale, leases, or deeds in consideration of the payment to the commission of the reasonable market value of the property as determined by a licensed or professional appraiser. The instruments of conveyance must be authorized by written resolution of the commission and must be signed by the chairman and attested to by the secretary.

(g) Subject to the terms of the donation and unless provided otherwise by the donor, the commission in action for the state with respect to donated property has the powers of a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code), with the state as the beneficiary and owner of the remainder of the donated property.

(h) The commission may accept gifts or loans of furniture, equipment, artwork, museum pieces, and other historical resources for placement in a specified regional research center under conditions to which the commission and the donor agree.

(i) For the purposes described by Subsection (c), the commission may enter into agreements the commission considers advisable with grantors and donors. The agreements may not create a financial obligation on the part of the state.

(j) The commission may provide out of regular appropriations for the operation, equipping, staffing, and maintenance of a regional research center and may enter into any cooperative agreements it considers advisable with any state agency, county, municipality, or other local government for the purposes described by Subsection (c) in, or through services provided by, a regional research center.

(k) A regional research center established under this section is owned by the state and is under the direct control and supervision of the commission.

(l) The commission shall adopt rules that prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a research center and shall also establish other policies it considers necessary to ensure the effective administration of a research center.

(m) A regional research center is dedicated to the objectives described by Subsection (a) and may not be used for other purposes, but the commission may establish rules governing the use of meeting rooms in a research center for educational purposes.

(n) The commission shall report annually to the governor and the legislature all donations, grants, agreements, and special accounts under this section, and those items are subject to audit by the state auditor.

Sec. 441.155. **Placement and Removal of Resources.** [71st Leg., 1989]

(a) The commission may place any historical resources in its custody in a depository or research center.

(b) Subject only to an agreement under Section 441.154(i), the commission may remove historical resources in its custody from one depository or research center to another or to the state library in Austin if the commission determines that the removal would ensure the safety, preservation, or availability of the resources.

Sec. 441.156. **Contracting Authority.** [71st Leg., 1989]

(a) The commission may enter into contracts or agreements that it considers necessary or advisable to foster and assist in the development of local government records management programs and the preservation of local government records of permanent value and to carry out its duties and responsibilities under this subchapter and Subtitle C, Title 6, Local Government Code.

(b) No contract or agreement made by the commission may bind the state for the payment of any funds that have not been authorized by an appropriation of the legislature or that are not available in accounts established under Section 441.154(e).

(c) The commission may sell advertising in publications developed pursuant to its duties under this subchapter and Subtitle C, Title 6, Local Government Code, and the commission may spend proceeds from the sale only to carry out those duties. The revenue from the sale shall be deposited in the state treasury to the credit of a special fund and reappropriated to the commission.

Sec. 441.157. **Grant-In-Aid Program.** [71st Leg., 1989]

(a) A program of state grants within the limitations of funds appropriated by the legislature is established for the purpose of aiding local governments in the establishment of records management programs or for the purposes of preserving historically valuable local government records.

(b) The commission shall adopt rules necessary to the administration of the grant program.

(c) The commission may use appropriated funds for personnel and other administrative expenses necessary to carry out the grant program.

(d) The commission shall report annually to the governor and the legislature all grants made under the program.

(e) If the United States Congress enacts legislation to fund a grant-in-aid program for the management or preservation of local government records, and if the legislation provides for the distribution of the funds by a state agency, the commission shall accept and administer the funds unless the federal legislation provides otherwise.

Sec. 441.158. **Local Government Records Retention Schedules.** [71st Leg., 1989]

(a) The director and librarian, under the direction of the commission, shall prepare and distribute free of charge to records management officers of affected local governments the records retention schedules for each type of local government, including a schedule for records common to all types of local government. The commission shall adopt the schedules by rule.

(b) Each records retention schedule must:

(1) list the various types of records of the applicable local government;

(2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and

(3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

(c) In preparing the records retention schedules, the director and librarian shall consult with custodians and other local government officials whose records are affected by the schedules and with appropriate state agencies.

(d) Before the adoption of a records retention schedule by the commission, it must be approved by a majority of the members of the local government records committee established under Section 441.161.

(e) After the adoption of a records retention schedule, a retention period for a record prescribed in a new or amended federal or state law, rule of court, or regulation that differs from that in a records retention schedule prevails over that in the schedule.

Sec. 441.159. **Prior Retention Periods in County Records Manual.** [71st Leg., 1989]

Retention periods for county records contained in the county records manual or any amendments to the manual approved before September 1, 1989, as provided under prior law are validated and have the same effect as retention periods in a records retention schedule adopted under Section 441.158. Any amendments to retention periods in the manual after September 1, 1989, must be in accordance with Section 441.160.

Sec. 441.160. **Revisions to Records Retention Schedules.** [71st Leg., 1989]

The records retention schedules may be revised and the revisions take effect according to their terms when they are approved and adopted in the same manner as provided by Section 441.158. However, editorial changes that do not substantively change the description of a record or its retention period and changes to retention periods as the result of changes to retention periods prescribed in a federal or state law, rule of court, or regulation do not require approval of the local government records committee before adoption.

Sec. 441.161. **Local Government Records Committee.** [71st Leg., 1989]

(a) A local government records committee shall be established to:

(1) review and approve by a majority vote of its members each of the records retention schedules prepared by the director and librarian as provided by Section 441.158;

(2) review and approve by a majority vote of its members certain rules to be considered for adoption by the commission as provided by Section 441.165; and

(3) advise the commission and the director and librarian on all matters concerning the management and preservation of local government records.

(b) In reviewing and approving records retention schedules and rules under this section, each committee member shall consider the costs of implementation and other factors that may affect local governments.

Sec. 441.162. **Composition of the Committee.** [71st Leg., 1989]

(a) The committee includes as ex officio members:

(1) the attorney general or the designee of that officer; and

(2) the comptroller of public accounts or the designee of that officer.

(b) The other members of the committee shall consist of:

(1) an active or retired district judge;

(2) a county judge or commissioner;

(3) a county clerk;

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(4) a district clerk;

(5) a county auditor;

(6) a county attorney;

(7) a district attorney;

(8) a county sheriff;

(9) a county tax assessor-collector;

(10) a county treasurer;

(11) a justice of the peace or municipal court judge;

(12) a mayor or other member of the governing body of a municipality;

(13) a city manager;

(14) three municipal clerks or secretaries, one from a municipality with a population of less than 5,000, one from a municipality with a population of 5,000 to 49,999, and one from a municipality with a population of 50,000 or more;

(15) a municipal attorney;

(16) a municipal finance officer;

(17) a municipal personnel officer;

(18) three police chiefs, one from a municipality with a population of less than 5,000, one from a municipality with a population of 5,000 to 49,999, and one from a municipality with a population of 50,000 or more;

(19) a fire chief;

(20) a municipal tax collector;

(21) a director or superintendent of a municipal public works program, a municipal utility, or a municipal building inspection department;

(22) an executive director of a hospital district or a health district or authority or the designee of the executive director;

(23) two executive directors of water districts or their designees;

(24) two chief appraisers of appraisal districts or their designees;

(25) three public school district representatives, or their designees, one of whom must represent school districts with an average daily attendance of less than 1,000; one of whom must represent school districts with an average daily attendance of 1,000 to 9,999; and one of whom must represent school districts with an average daily attendance of 10,000 or more; and

(26) two local government records management officers other than elected county officers.

Sec. 441.163. **Appointment of Local Government Records Committee; Compensation.** [71st Leg., 1989]

(a) The district judge member of the committee shall be appointed by the president of the Texas Judicial Council. Each of the other members of the committee, except the ex officio members, shall be appointed by the director and librarian as provided by this section.

(b) On or before the 30th day before the date the director and librarian makes an appointment, the director and librarian shall cause to be published in the *Texas Register* a notice of the intent to make an appointment.

(c) A nomination for appointment may be made by an organization representing officers of the type to be appointed that has as members at least 50 of those officers.

(d) After the 30th day after the date the notice is published under Subsection (b), the director and librarian shall appoint the nominee if there is only one, shall appoint one of the nominees if there is more than one, or shall appoint an officer chosen by the director and librarian, if there are no nominees.

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(e) In choosing between two or more nominees, the director and librarian shall give preference to a nomination or nominations received from organizations whose membership consists primarily of the type of officer to be nominated.

(f) On or before the 30th day after the date of the appointment of the last committee member under Subsection (d), the director and librarian shall have a complete list of committee members published in the *Texas Register*.

(g) Service on the local government records committee by a local government officer is an additional duty of the person's office. A member of the committee may not receive compensation for service on the committee but is entitled to be reimbursed from funds of the commission for actual and necessary expenses incurred on committee business, subject to any limit provided by the General Appropriations Act. Expenses of the attorney general and the comptroller of public accounts or their designees shall be paid from the funds of their respective offices. Expenses of the district judge shall be paid from the funds of the Texas Judicial Council.

(h) The district judge is chairman of the committee. In the absence of the district judge at a meeting, committee members in attendance shall elect a chaiman as their first order of business.

Sec. 441.164. **Term; Qualification; Vacancy.** [71st Leg., 1989]

(a) Except for the ex officio members, committee members are appointed for two-year terms expiring on February 1 of odd-numbered years. However, the initial committee members may be appointed for terms of shorter than two years.

(b) To remain eligible to serve on the committee, a person must continue to hold the office or position the person was appointed to represent.

(c) A vacancy on the committee shall be filled in the same manner as an original appointment.

(d) No two committee members may hold office in or be employed by the same local government.

Sec. 441.165. **Certain Commission Rules.** [71st Leg., 1989]

Rules and any revisions to the rules developed under Sections 203.048, 204.004, and 205.003, Local Government Code, must be approved by a majority of the members of the local government records committee established under Section 441.161.

Sec. 441.166. **State Agency Rules.** [71st Leg., 1989]

A state agency other than the commission, the Texas Supreme Court, or the Texas Court of Criminal Appeals may not require a local government to retain a record for any specific period of time unless the requirements are imposed by federal law or regulation, state law, or rules adopted by the agency under the Administrative Procedure and Texas Register Act (Article 6252–13a, *Vernon's Texas Civil Statutes*).

Sec. 441.167. **Statutory Filing and Review.** [71st Leg., 1989]

The director and librarian may designate employees of the commission to act as deputies in the approval or disapproval or acceptance or rejection for filing of any records control schedule, destruction authorization request, electronic storage authorization request, or other statutory filing required by Subtitle C, Title 6, Local Government Code, or rules adopted under it.

Chapter 443. STATE PRESERVATION BOARD.

Sec. 443.005. **Architect of the Capitol.** [70th Leg., 1987; Amended 71st Leg., 1989]

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(c) The architect of the Capitol shall:

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(4) maintain archives relating to the construction and development of the buildings, their contents, and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Texas State Library and Archives Commission;

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Sec. 443.006. **Curator of the Capitol.** [70th Leg., 1987]

(a) The architect of the Capitol shall employ a curator of the Capitol. The curator of the Capitol must have at least a master's degree and four years' experience in historic collections administration with a specialization in the material culture of this state.

(b) The curator of the Capitol shall:

(1) assist in matters dealing with the preservation of historic materials;

(2) develop and maintain a registration system and inventory of the contents of the Capitol and the General Land Office Building and their grounds and of the original documents relating to the buildings' construction and alteration;

(3) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the buildings;

(4) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the permanent advisory committee and the board;

(5) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance; and

(6) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy.

Sec. 443.007. **General Powers and Duties of Board.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The board shall:

(1) preserve, maintain, and restore the Capitol, the General Land Office Building, their contents, and their grounds;

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(c) Any power or duty related to the buildings and formerly vested in the Texas Commission on the Arts, State Purchasing and General Services Commission, Antiquities Committee, Texas Historical Commission, Texas State Library and Archives Commission, or any other entity or state agency is vested solely in the board.

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Sec. 443.008. **Advisory Committees.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The board shall appoint a permanent advisory committee consisting of the executive director of the Texas Historical Commission, chairman of the Antiquities Committee, director of the Texas State Library and Archives Commission, director of the Texas Commission on the Arts, and three citizens, one each appointed by the governor, lieutenant governor, and speaker of the house of representatives. At its first meeting in each odd-numbered year, the board shall designate a chairman for the committee from among the committee's members. The person designated serves in that capacity until a successor is designated.

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(c) The committee shall assist in the development of the master plan, annual work program, and budget prepared by the architect of the Capitol and a collection policy prepared by the curator of the Capitol, and make recommendations concerning board approval of those documents.

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Sec. 443.011. **Responsibility for Items.** [70th Leg., 1987]

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not part of the Texas State Library and are not subject to the custody or control of the Texas State Library and Archives Commission or any other agency.

Sec. 443.014. **Texans Awarded the Congressional Medal of Honor.** [71st Leg., 1989]

(a) The board shall include in its long-range master plan for the maintenance, preservation, restoration, and modification of the Capitol and grounds of the Capitol the construction of a permanent exhibit or memorial honoring citizens of this state who have been awarded the Congressional Medal of Honor.

(b) On the request of the board, the Texas State Library and Archives Commission, the Texas Historical Commission, and the Texas Veterans Commission shall assist the board in the planning of the exhibit or memorial, including its design, placement, and content.

(c) The board shall create an advisory committee, consisting of any number of citizens of this state each of whom has been awarded the Congressional Medal of Honor, to advise the board regarding the exhibit or memorial.

Chapter 444. TEXAS COMMISSION ON THE ARTS.

Subchapter B. Powers And Duties.

Sec. 444.021. **General Duties.** [70th Leg., 1987]

The commission shall:

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(5) provide advice to the State Purchasing and General Services Commission, Texas Historical Commission, Texas State Library, Texas Tourist Development Agency, State Department of Highways and Public Transportation, and other state agencies to provide a concentrated state effort in encouraging and developing an appreciation for the arts in the state;

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Subtitle F. COMMERCE AND INDUSTRIAL DEVELOPMENT.

Chapter 481. TEXAS DEPARTMENT OF COMMERCE.

Subchapter B. General Powers And Duties Of Department.

[Note: At the time of printing this publication the statute contains two Section 481.025's; only one is shown here.]

Sec. 481.025. **Texas Literacy Council.** [71st Leg., 1989]

(a) The Texas Literacy Council is established as an adjunct to the department.

(b) The council consists of 17 members. The governor appoints nine members. The lieutenant governor appoints four members, two of whom must be members of the senate. The speaker of the house of representatives appoints four members, two of whom must be members of the house. Appointees shall be representative of business, industry, labor, education, organizations with expertise in literacy, and other areas of society with an interest in literacy. Members of the council who are not members of the legislature are officers of the public school system for purposes of Article VII, Section 16, of the Texas Constitution, as added in 1928. Members appointed by the governor serve staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year. Members appointed by the lieutenant governor or the speaker of the house of representatives who are not members of the legislature serve staggered four-year terms, with the terms of one member appointed by the lieutenant governor and of one member appointed by the speaker expiring February 1 of each odd-numbered year. Members who are members of the legislature serve as ex officio members for two-year terms. If a member who is a member of the legislature ceases to be a member of the house from which the member was appointed, that membership position on the council becomes vacant. A member of the council who is absent for three consecutive meetings may be removed from the council.

(c) A member of the council may not receive compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the council, subject to any applicable limitation on reimbursement provided by the General Appropriations Act. An ex officio member of the council shall receive reimbursement for actual and necessary expenses under the rules of the member's office.

(d) The governor shall designate the chair of the council from among the members. The council shall meet at least quarterly, and at other times at the call of the chair or as provided by rule of the council.

(e) The department shall provide office space and other necessities to the council and shall provide staffing for the council at the request of the council. Other state agencies may provide staff assistance to the council at the request of the council.

Sec. 481.026. **Duties of Literacy Council; Interagency Work Group.** [71st Leg., 1989]

(a) The Texas Literacy Council shall:

(1) advise the governor, the State Job Training Coordinating Council, the State Board of Education, the Texas Higher Education Coordinating Board, and any group interested in literacy on policy, planning, research, and program development;

(2) coordinate the development and maintenance of a literacy services delivery system;

(3) oversee the attainment of the state's literacy goals;

(4) build a partnership with the private sector in order to inform the objectives-setting process and to gain acceptance of the services of a functional literacy program;

(5) provide state leadership to encourage and support local and statewide literacy efforts;

(6) advise the State Board of Education on needs, priorities, and standards of adult literacy education programs conducted in accordance with Section 11.18, Education Code;

(7) advocate the importance of literacy to ensure that all in need of assistance understand the benefits of increased functional literacy and to ensure that the necessary resources are available;

(8) make literacy instruction available to adults and out-of-school youth by ensuring that a comprehensive literacy instruction capacity is present in every Texas community;

(9) coordinate and improve local literacy instruction to ensure the most efficient and effective use of resources to meet adult education goals;

(10) identify state and local literacy programs and enter them in a directory for centralized referral and communication;

(11) continue oversight of literacy needs analysis;

(12) continue to develop an awareness campaign;

(13) develop a timetable and objectives for reaching the proposed goals and subgoals; and

(14) make recommendations to the governor, lieutenant governor, and speaker of the house of representatives or other state officials or organizations that it considers appropriate regarding the expenditure of funds and the administration of programs.

(b) An interagency work group is created to advise the council. The advisory work group is composed of representatives from the Central Education Agency, Texas State Library and Archives Commission, Texas Higher Education Coordinating Board, Texas Employment Commission, Texas Department of Corrections, Texas Department of Human Services, Texas Rehabilitation Commission, Advisory Council for Technical Vocational Education, and State Job Training Coordinating Council.

(c) The council shall, with advice from the advisory work group, develop, adopt, and present to the 72nd Legislature a five-year strategic plan for comprehensive Texas Literacy efforts. The plan must include:

(1) identification of all money from private, local, and federal sources available for investment in state and community literacy programs;

(2) proposals for acquiring local, state, and federal money identified in A Guide to Adult Literacy Funds and Resources to provide maximum support for state and community programs;

(3) proposals for coordination of state government resources, planning, and personnel among the agencies advising the council, to ensure, within budget constraints and consistent with existing missions, general access to state support services for community programs;

(4) identification of program shortages and gaps in service delivery, and proposals to establish a comprehensive service delivery system for all regions of the state and all target populations;

(5) an appropriate balance in recommended funding and support services for both adult literacy training and early student intervention, to ensure development of a continuum of literacy training services targeted at family needs;

(6) a discussion of evaluation tools used to measure student and program performance, in order to assure policymakers of concrete achievements and accountability for public funds; and

(7) other items that should be included in the judgement of the council.

(d) The department may award literacy grants out of state, local, federal, and private money available to the department for that purpose. Grants shall be awarded under guidelines set by the council. The guidelines shall include a competitive request for proposal process, designed by the council with the assistance of its advisory work group. The process shall include criteria for evaluating the proposals.

(e) The council may establish a Texas literacy trust fund for the purpose of collecting private funds for distribution to community literacy programs. The fund must meet all applicable requirements under the state and federal law necessary for qualification as a nonprofit trust. The fund, if established, shall be a separate fund kept and held in escrow and in trust by the state treasurer for and on behalf of the council as funds held outside the treasury under Section 404.073. Unless prohibited by other law, the state treasurer may invest and reinvest the money, pending its use, in the fund in investments authorized by law for state funds that the state treasurer considers appropriate. The department shall distribute money from the fund under guidelines set by the council.

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Subchapter M. **Data Depository.**

Sec. 481.183. **Agency Cooperation.** [71th Leg., 1989]

Each state agency that provides, collects, analyzes, or disseminates information of any type shall execute a written agreement with the department providing for coordination of those activities with the department's activities under this subchapter. However, an agency is not required to supply information made confidential or the distribution of which is otherwise restricted by state law.

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Subchapter P. **Grants-In-Aid To Libraries.**

Sec. 481.211. **Agreement With Library and Archives Commission.** [71st leg., 1989]

The Texas State Library and Archives Commission shall execute a written agreement with the department providing for coordination and planning of and giving priority to grants made under the Library Systems Act (Section 441.121 et seq.).

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HUMAN RESOURCES CODE

Title 5. **SERVICES FOR THE BLIND AND VISUALLY HANDICAPPED.**
Chapter 91. **TEXAS COMMISSION FOR THE BLIND.**
Subchapter E. **Central Media Depository.**

Sec. 91.081. **Purpose.** [Amended 69th Leg., 1985]

(a) The purpose of this subchapter is to establish a comprehensive central state depository for braille, large print, slow speed records and machines, tape recordings and tape players, and related forms of media that will enable the Texas State Library, the Central Education Agency, the Texas Commission for the Blind, volunteer organizations involved in the production of braille or recorded materials for the blind, the Library of Congress, and related types of organizations to work together more closely and effectively.

(b) It is the intent of this subchapter to allow various agencies and organizations interested in or responsible for such services to work together cooperatively in one facility without requiring one central management.

Sec. 91.082. **Establishment of Central Media Depository.** [Amended 66th Leg., 1979]

(a) The Texas State Library and Archives Commission shall generally supervise the establishment and operation of a central media depository in Austin to house materials and devices required by blind and visually handicapped individuals or by other individuals who are unable to use ordinary printed materials.

(b) With the approval of the library and archives commission, the agencies and organizations maintaining and operating the central media depository shall develop and periodically evaluate and modify specific arrangements for administrative support, sharing of staff and equipment, and related matters involved in the operation of the program.

Sec. 91.083. **Ancillary Services.** [66th Leg., 1979]

The library and archives commission shall allow the central media depository to be used for the repair of special media and equipment required by individuals who are unable to use ordinary print and for research and demonstration, training, and the production of materials in special media by volunteer organizations.

Sec. 91.084. **Funding.** [66th Leg., 1979]

The cost of establishing and operating the central media depository shall be paid with:

(1) funds appropriated by the legislature for that purpose;

(2) gifts, grants, bequests, and donations received by cooperating agencies for the establishment and support of the depository;

(3) reasonable fees customarily charged for services by the agencies and organizations using or occupying the facility; and

(4) funds budgeted by the cooperating agencies and organizations for that purpose pursuant to interagency contracts and agreements.

Title 8. RIGHTS AND RESPONSIBILITIES OF THE HANDICAPPED.
Chapter 121. PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES.

Sec. 121.001. **State Policy.** [66th Leg., 1979]

The policy of the state is to encourage and enable physically handicapped persons to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

Sec. 121.002. **Definitions.** [66th Leg., 1979; Amended 69th Leg., 1985]

In this chapter:

(1) "White cane" means a cane or walking stick which is metallic or white in color or white tipped with some contrasting color, and which is carried by a blind person to assist the blind person in traveling from place to place.

(2) "Support dog" means a dog that is specially trained or equipped to help a handicapped person, and that:

(A) is used by a handicapped person who has satisfactorily completed a specific course of training in the use of the dog; and

(B) has been trained by an organization generally recognized by agencies involved in the rehabilitation of the handicapped as reputable and competent to provide dogs with training of this type.

(3) "Public facilities" includes streets, highways, sidewalks, walkways, all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation, hotels, motels, or other places of lodging, public buildings maintained by any unit or subdivision of government, buildings to which the general public is invited, college dormitories and other educational facilities, restaurants or other places where food is offered for sale to the public, and all other places of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(4) "Handicapped person" means a person who has a mental or physical handicap, including mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, being crippled, or any other health impairment which requires special ambulatory devices or services.

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Sec. 121.003. **Discrimination Prohibited.** [66th Leg., 1979; Amended 71st Leg., 1989]

(a) Subject only to limitations and conditions established by law and applicable alike to all persons, persons who are physically handicapped have the same right as the able-bodied to the full use and enjoyment of any public facility in the state.

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(c) No person who is physically handicapped may be denied admittance to any public facility in the state because of the handicapped person's use of a white cane, support dog, wheelchair, crutches, or other device of assistance in mobility, or because the person is handicapped.

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(g) It is the policy of the state that the blind, the visually handicapped and the otherwise physically disabled be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

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LOCAL GOVERNMENT CODE

Title 6. **RECORDS.**
Subtitle B. **COUNTY RECORDS.**
Chapter 194. **STORAGE OF COUNTY RECORDS BY MICROFILMING OR BY OPTICAL DATA STORAGE PROCESS.**

Sec. 194.0025. **Authorization of Optical Data Storage Process.** [71st Leg., 1989]

(a) For the purposes described by Section 194.002(a), a county clerk or clerk of the county court may adopt and use an optical data storage process for the storage of records by optical disk.

(b) This chapter applies, to the extent feasible, to the optical data storage process, the optical disk used in that process, and the records stored by that process in a manner equivalent to the manner in which this chapter applies to a microfilm process, the film used in that process, and the records stored by that process.

Sec. 194.0065. **Computerized Index for Official Public Records.** [71st Leg., 1989]

An index for an official public record may be stored or maintained by computer, provided that a security or backup copy of such index be created on a daily basis and stored in a climate-controlled location, equipped with fire alarms and sprinklers, which must be separate and apart from the building in which the computer is located.

Sec. 194.010. **Standards for Filming.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) If a state public records commission is created, an original negative roll and an original negative discrete image of a microfilm record must meet the requirements of that commission relating to archival quality, density, resolution, and definition. If that commission is not created, a microfilm record must meet such requirements of the American National Standards Institute.

(b) A camera used for microfilming must meet or exceed the then current requirements of the American National Standards Institute for the documentation of permanent records.

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Sec. 194.017. **Disposal of Originals.** [70th Leg., 1987; Amended 71st 1989]

The commissioners court of a county may authorize by order the disposal of an original paper record from which a microfilm record is made if the county clerk certifies to the court that the original negative microfilm of the record fully meets the requirements of the American National Standards Institute for archival quality, density, resolution, and definition.

Subtitle C. **RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT.**
Chapter 201. **GENERAL PROVISIONS.**

Sec. 201.001. **Short Title.** [71st Leg., 1989]

This subtitle may be cited as the Local Government Records Act.

Sec. 201.002. **Purpose.** [71st Leg., 1989]

Recognizing that the citizens of the state have a right to expect, and the state has an obligation to foster, efficient and cost-effective government and recognizing the central importance of local government records in the lives of all citizens, the legislature finds that:

(1) the efficient management of local government records is necessary to the effective and economic operation of local and state government;

(2) the preservation of local government records of permanent value is necessary to provide the people of the state with resources concerning their history and to document their rights of citizenship and property;

(3) convenient access to advice and assistance based on well-established and professionally recognized records management techniques and practices is necessary to promote the establishment of sound records management programs in local governments, and the state can provide the assistance impartially and uniformly; and

(4) the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of local government records is necessary to fulfill these important public purposes.

Sec. 201.003. **Definitions.** [71st Leg., 1989]

In this subtitle:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Designee" means an employee of the commission designated by the director and librarian as provided by Section 441.167, Government Code.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Governing body" means the court, council, board, commission, or other body established or authorized by law to govern the operations of a local government. In those instances in which authority over an office or department of a local government is shared by two or more governing bodies or by a governing body and the state, the governing body, for the purposes of this subtitle only, is the governing body that provides most of the operational funding for the office or department.

(7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display; or

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(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, *Vernon's Texas Civil Statutes*), or other state law.

(9) "Office" means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.

(10) "Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.

(11) "Record" means a local government record.

(12) "Records control schedule" means a document prepared by or under the authority of the records management officer listing the records maintained by a local government or an elective county office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.

(13) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(14) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025 as the records management officer.

(15) "Records retention schedule" means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

(16) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 201.004. **Record Books.** [71st Leg., 1989]

If a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a "book," "record book," or "well-bound book," or contains any similar requirement that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Chapters 204 and 205 and rules adopted under those chapters unless the law specifically prohibits those methods.

Sec. 201.005. **Declaration of Records as Public Property; Access.** [71st Leg., 1989]

(a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of this subtitle and Subchapter J, Chapter 441, Government Code.

(b) A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

Sec. 201.006. **Records to be Delivered to Successor in Office.** [71st Leg., 1989]

(a) A custodian of local government records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver to the custodian's successor, if there is one, all local government records in custody. If there is no successor, the governing body shall determine which officer of the local government shall have custody.

(b) If the functions of an office of one local government are assumed by another local government, the governing bodies of the two local governments shall determine in which local government custody of the records of the office shall be vested.

Sec. 201.007. **Records of Abolished Local Governments.** [71st Leg., 1989]

(a) If a local government is abolished or declared void pursuant to state law, the records of the local government shall be dealt with according to this section.

(b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter 62, Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the commission. A record of an abolished municipality may not be sold to satisfy an outstanding indebtedness.

(c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the records of the district to the custody of the commission. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.

(d) As an exception to Subsections (b) and (c), if some or all of the functions of an abolished municipality or special-purpose district or authority, other than a school district, are assumed by another local government, the records of the abolished local government relating to the assumed functions shall be transferred to the appropriate offices of the local government assuming the functions.

(e) The records of annexed, consolidated, or abolished school districts shall be transferred as provided by this subsection. The records of an annexed school district shall be transferred to the custody of the governing body of the school district to which the abolished school district has been annexed. The records of each of two or more school districts that have been consolidated shall be transferred to the custody of the governing body of the consolidated school district. The records of an abolished school district whose entire territory is annexed to another school district shall be transferred to the custody of the governing body of that school district. The commissioner of education shall determine to which governing body custody of the records of an abolished school district shall be transferred in those instances in which the territory of the abolished district is divided among two or more school districts.

(f) The cost of transfer of records to the commission under this section shall be paid for out of funds of the commission.

(g) The retention and disposition of local government records transferred to the custody of the commission under this section shall be based, as far as is practicable, on records retention schedules issued by the commission.

Sec. 201.008. **Records of Abolished Offices of County Superintendents of Schools.** [71st Leg., 1989]

(a) Regardless of the provisions of Section 17.97, Education Code, all records of an office of county superintendent of schools or county superintendent of education abolished under Section 17.95, Education Code, before September 1, 1989, that are still in the possession of a custodian of county records or a county officer shall be transferred to the custody of the commission by order of the director and librarian.

(b) The director and librarian shall determine the time and manner of the transfer of the records on a county-by-county basis. The cost of the transfer shall be paid for out of funds of the commission.

(c) The county judge of a county in which a custodian of county records has possession of the records of an abolished office of the county superintendent of schools may petition the director and librarian to allow the county to retain all or part of the records and the director and librarian may grant the petition.

Sec. 201.009. **Access to Records.** [71st Leg., 1989]

(a) Local government records are subject to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*).

(b) Any local government record to which public access is denied under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*), is, if still in existence, open to public inspection 75 years after it was originally created or received. However, a birth record maintained by a local registrar is, if still in existence, open to public inspection 100 years after it was originally created or received and a death record maintained by a local registrar is, if still in existence, open to public inspection 55 years after it was originally created or received. This subsection does not limit the authority of a governing body or an elected county officer to establish retention periods for records under Section 203.042.

(c) Subsection (b) does not apply to a local government record whose public disclosure is prohibited by an order of a court or by another state law.

Chapter 202. DESTRUCTION AND ALIENATION OF RECORDS.

Sec. 202.001. **Destruction of Records.** [71st Leg., 1989]

(a) A local government record may be destroyed if:

(1) the record is listed on a records control schedule accepted for filing by the director and librarian as provided by Section 203.041 and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapters 204 and 205;

(2) the record appears on a list of obsolete records approved by the director and librarian as provided by Section 203.044; or

(3) a destruction request is filed with and approved by the director and librarian as provided by Section 203.045 for a record not listed on an approved control schedule.

(b) The following records may be destroyed without meeting the conditions of Subsection (a):

(1) records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law; and

(2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Sec. 202.002. **Litigation and Open Records Requests.** [71st Leg., 1989]

(a) Regardless of any other provision of this subtitle or rules adopted under it, a local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

(b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*), may not be destroyed until the request is resolved.

Sec. 202.003. **Method of Destruction.** [71st Leg., 1989]

(a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).

(b) Records to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*), or other state law may be destroyed only by burning, pulping, or shredding.

(c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.

(d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

Sec. 202.004. **Alienation of Records Prohibited.** [71st Leg., 1989]

(a) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and at the expiration of its retention period under the local government's records control schedule.

(b) Subsection (a) does not apply to a local government record that is temporarily transferred to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures if the transfer is authorized by the records management officer or custodian.

Sec. 202.005. **Right of Recovery.** [71st Leg., 1989]

(a) The governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law.

(b) If the person in possession of a local government record refuses to deliver the record on demand, the governing body may petition the district court of the county in which the person resides for the return of the record. If the court finds that the record is a local government record, the court shall order the return of the record.

(c) As part of the petition to the district court or at any time after its filing, the governing body may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(d) The director and librarian may demand and receive from any person any local government record of permanent value in private possession.

(e) If the person in possession of the local government record of permanent value refuses to deliver the record on demand, the director and librarian may ask the attorney general to petition for the recovery of the record as provided by this section. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(f) A local government record recovered as the result of a petition by the attorney general shall be transferred to the custody of the commission or, at the discretion of the director and librarian, be returned to the local government that originally had custody of the record.

(g) If a local government refuses to deliver custody of a record to the commission as provided by Section 201.007, 201.008, or 203.050, the director and librarian may ask the attorney general to petition for recovery of the record. If the court determines that the director and librarian has acted in accordance with Section 201.007, 201.008, or 203.050, as applicable, and with regard to Section 203.050, the court finds that the survival of the record is imperiled, the court shall order the record to be transferred to the custody of the commission.

(h) If a governing body petitions a court for the recovery of a record under Subsection (b) and prevails or if the attorney general petitions a court for the recovery of a record under Subsection (e) or (g) and prevails, the court shall award attorney's fees and court costs to the prevailing party.

Sec. 202.006. **Destruction of Nonrecord Material.** [71st Leg., 1989]

(a) Material that is not included in the definition of a local government record and is described by Section 201.003(8)(A), (B), or (C) may be disposed of at the discretion of the custodian or the creator of the document, as applicable, subject to any policies developed in each local government or elective county office regarding the destruction.

(b) Extra identical copies of a local government record to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*), or other state law may be destroyed only by burning, pulping, or shredding.

Sec. 202.007. **Personal Liability.** [71st Leg., 1989]

A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a local government record if the destruction is in compliance with this subtitle and rules adopted under it.

Sec. 202.008. **Penalty: Destruction or Alienation of Record.** [71st Leg., 1989]

An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of this subtitle or by intentionally failing to deliver records to a successor in office as provided by Section 201.006(a). An offense under this section is a Class A misdemeanor.

Sec. 202.009. **Penalty: Possession of Record by Private Entity.** [71st Leg., 1989]

(a) A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a local government record. An offense under this subsection is a Class A misdemeanor.

(b) It is a defense to prosecution under this section that a private college, university, museum, or library, by agreement with the commission under Subchapter J, Chapter 441, Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Chapter 203. MANAGEMENT AND PRESERVATION OF RECORDS.

Subchapter A. Elective County Offices.

Sec. 203.001. **Records Management Officer.** [71st Leg., 1989]

Each elected county officer is the records management officer for the records of the officer's office.

Sec. 203.002. **Duties and Responsibilities of Elected County Officers as Records Management Officers.** [71st Leg., 1989]

The elected county officer shall:

(1) develop policies and procedures for the administration of an active and continuing records management program;

(2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;

(3) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044;

(4) prepare requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and electronic storage authorization requests as provided by Section 205.007;

(5) identify and take adequate steps to preserve records that are of permanent value;

(6) identify and take adequate steps to protect the essential records of the office;

(7) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and

(8) cooperate with the commission in its conduct of statewide records management surveys.

Sec. 203.003. **Duties of Commissioners Court.** [71st Leg., 1989]

The commissioners court of each county shall:

(1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;

(2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;

(3) facilitate the identification and preservation of the records of elective offices that are of permanent value; and

(4) facilitate the identification and protection of the essential records of elective offices.

Sec. 203.004. **Director and Librarian.** [71st Leg., 1989]

The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Sec. 203.005. **Records Management Program to be Established.** [71st Leg., 1989]

(a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.

(b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section 203.002 concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.

(d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

(g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Subchapter B. **All Other Local Government Offices.**

Sec. 203.021. **Duties and Responsibilities of Governing Body.** [71st Leg., 1989]

The governing body of a local government, including a commissioners court with regard to nonelective county offices, shall:

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its conduct of statewide records management surveys.

Sec. 203.022. **Duties and Responsibilities of Custodians.** [71st Leg., 1989]

(a) Custodians of records in each local government shall:

(1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;

(2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and

(3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.

(b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Sec. 203.023. **Duties of Records Management Officer.** [71st Leg., 1989]

The records management officer in each local government shall:

(1) assist in establishing and developing policies and procedures for a records management program for the local government;

(2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) in cooperation with the custodians of the records:

(A) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044; and

(B) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and of electronic storage authorization requests as provided by Section 205.007;

(4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;

(5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;

(6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;

(7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and

(8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:

(A) the duties and responsibilities of custodians that may be imposed by law; and

(B) the confidentiality of information in records to which access is restricted by law.

Sec. 203.024. **Director and Librarian**. [71st Leg., 1989]

The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Sec. 203.025. **Designation of Records Management Officer**. [71st Leg., 1989]

(a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:

(1) designating an individual; or

(2) designating an office or position, the holder of which shall be the records management officer.

(b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.

(c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.

(d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.

(e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.

(f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), *Vernon's Texas Civil Statutes*), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.

(g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Sec. 203.026. **Records Management Program to be Established**. [71st Leg., 1989]

(a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

(b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.

(d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

(g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section 203.041.

Subchapter C. **Records Control Schedules.**

Sec. 203.041. **Preparation and Filing of Records Control Schedules.** [71st Leg., 1989]

(a) On or before January 2, 1995, the records management officer shall prepare and file with the director and librarian a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042:

(1) all records created or received by the local government or elective county office;

(2) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and

(3) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044.

(b) At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Section 201.003(8) and exempted records described by Section 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

(c) At the discretion of the director and librarian and on petition from a local government or elected county officer that it will be impossible to comply fully with the requirements of Subsection (a), the director and librarian may extend the deadline for the filing of records control schedules for a period on which the director and librarian and the local government or elected county officer agree. One or more additional extensions may be granted, but in no case may the first extension and any additional extensions be for a combined period of more than three years for the same local government or elective county office.

(d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.

(e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

(f) Records control schedules may be filed on an office-by-office basis or on a department-by-department basis within each office.

(g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section 441.158, Government Code, is not required to submit a records control schedule under this section.

(h) The director and librarian shall determine the form and manner of the filing of records control schedules and amended schedules.

Sec. 203.042. **Retention Periods.** [71st Leg., 1989]

(a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.

(b) A retention period may not be less than:

(1) a retention period prescribed by a state or federal law, regulation, or rule of court; or

(2) a retention period for the record established on a records retention schedule issued by the commission.

(c) If at the time a records control schedule is filed by a local government or elected county officer with the director and librarian as provided by Section 203.041, a records retention schedule for the records of that type of local government or elective county office has not been issued by the commission, the records control schedule filed with the director and librarian must be amended to conform with the commission schedule when it is issued to the extent that any retention period on a records control schedule is less than a retention period for the same record on the commission schedule.

Sec. 203.043. **Filing of Records Control Schedules.** [71st Leg., 1989]

(a) If the director and librarian or the designee of the director and librarian accepts the records control schedule or amended schedule for filing, it may be used as the basis for the destruction of records listed on it without additional notice to the director and librarian.

(b) If the director and librarian or the designee of the director and librarian rejects the records control schedule or amended schedule for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule or amended schedule shall be corrected and resubmitted.

(c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention period for the same record established on a records retention schedule issued by the commission or if the schedule is in violation of this subtitle or a rule adopted under it.

(d) The director and librarian or the designee of the director and librarian may make it a condition of acceptance of a records control schedule or amended schedule for filing that a record listed on the schedule be transferred to the custody of the commission on the expiration of its retention period rather than being destroyed.

Sec. 203.044. **Initial Destruction of Obsolete Records.** [71st Leg., 1989]

(a) In preparing a records control schedule required by Section 203.041, the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.

(b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section 203.041(e).

(c) The lists shall be submitted to the director and librarian for approval. If the director and librarian or the designee of the director and librarian approves the list, the records listed on it may be destroyed. If the director and librarian or the designee of the director and librarian disapproves the list, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer the record or records on the list that must be retained by the government or elective county office or transferred to the custody of the commission.

(d) The director and librarian shall determine the form and manner of submission of requests to destroy obsolete records.

Sec. 203.045. **Destruction of Unscheduled Records.** [71st Leg., 1989]

(a) Before the filing of a records control schedule as provided by Section 203.041, a local government record may be destroyed only with the prior approval of the director and librarian.

(b) After the filing of a records control schedule or an amended schedule as provided by Section 203.041, a record that does not appear on a records control schedule or amended schedule accepted for filing may be destroyed only with the prior approval of the director and librarian.

(c) Requests for authorization to destroy unscheduled records shall be submitted by the records management officer or under the officer's direction. However, if the request is submitted before the filing of a records control schedule and a records management officer has not yet been designated as provided by Section 203.025, the request shall be submitted by the custodian.

(d) If the director and librarian or the designee of the director and librarian approves the request, the records listed on it may be destroyed. If the director and librarian or the designee disapproves the request, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer or custodian the record or records on the list that must be retained by the government or transferred to the custody of the commission.

(e) The director and librarian shall determine the form and manner of submission of requests to destroy unscheduled records.

Sec. 203.046. **Recordkeeping Requirements.** [71st Leg., 1989]

As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Sec. 203.047. **New Local Governments.** [71st Leg., 1989]

A local government established after September 1, 1989, shall fulfill the requirements of Sections 203.025, 203.026, and 203.041 within one year after the date of its establishment.

Sec. 203.048. **Care of Records of Permanent Value.** [71st Leg., 1989]

The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Sec. 203.049. **Transfer of Records of Permanent Value.** [71st Leg., 1989]

(a) The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:

(1) the commission; or

(2) another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the commission as provided by Section 203.048.

(b) Transfers of permanent records to another local government require the prior approval of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Sec. 203.050. **Inspection of Permanent Records.** [71st Leg., 1989]

(a) The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, *Vernon's Texas Civil Statutes*).

(b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that imperils its survival and state what measures must be taken to properly care for and preserve the record.

(c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:

(1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or

(2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.

(d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Chapter 204. MICROFILMING OF RECORDS.

Sec. 204.001. **Definitions.** [71st Leg., 1989]

In this chapter:

(1) "Microfilm" means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.

(2) "Microfilming" means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

Sec. 204.002. **Authorization.** [71st Leg., 1989]

Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

Sec. 204.003. **Microfilm Produced Under Prior Law.** [71st Leg., 1989]

(a) All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.

(b) In rules adopted under Section 204.004, the commission may establish procedures for the retrospective certification of uncertified or improperly certified microfilm produced before April 1, 1990, that otherwise meets the standards prescribed by prior law.

Sec. 204.004. **Standards and Procedures.** [71st Leg., 1989]

(a) The commission shall adopt rules on or before April 1, 1990, establishing standards and procedures for the microfilming of local government records. The rules must be approved as required by Section 441.165, Government Code.

(b) The rules must prescribe:

(1) standards for film quality, resolution, density, definition, and chemical stability;

(2) tests and other methods of inspection required to establish that prescribed standards have been met;

(3) procedures for verifying that records have been filmed accurately;

(4) procedures for the certification of microfilmed records;

(5) standards for the use of editorial and technical targets on microfilm;

(6) standards for the production of use copies from and the storage of master microfilm negatives;

(7) procedures for the labeling and indexing of microfilmed records;

(8) procedures establishing the manner in which court case papers must be filmed;

(9) procedures for the expunction of criminal records on microfilm pursuant to court order;

(10) standards for computer-output microfilm; and

(11) standards for providing access by the members of the public to records on microfilm to which they are entitled under law.

(c) In rules adopted under this section, the commission may establish differing standards and procedures for the microfilming of:

(1) any permanent record;

(2) any record of a municipal, justice, county, or district court; or

(3) any record to which access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252–17a, Vernon's Texas Civil Statutes), or other state law.

Sec. 204.005. **Rules to be Updated.** [71st Leg., 1989]

The director and librarian shall monitor standards relating to microfilming developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of information and records management in order to recommend to the commission any needed amendments to rules.

Sec. 204.006. **Indexing.** [71st Leg., 1989]

An index to a microfilm record must show the same information that may be required by state law for an index to the same record if it is not microfilmed.

Sec. 204.007. **Destruction of Original Records.** [71st Leg., 1989]

(a) Except as provided by Section 204.008, the original of a record that has been microfilmed pursuant to this chapter and rules adopted under it may be destroyed before the expiration of its retention period on a records retention schedule issued by the commission.

(b) A list of the originals of microfilmed records destroyed shall be filed with the records management officer.

(c) The microfilm record must be retained until the expiration of the retention period for the original record.

Sec. 204.008. **Destruction of Permanent Records.** [71st Leg., 1989]

(a) The original of a permanent record may not be destroyed until a destruction authorization request is submitted to the director and librarian certifying that the microfilm of the record meets the standards of this chapter and rules adopted under it.

(b) Requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designated under Section 203.025, by the custodian of the microfilm records.

(c) If the director and librarian or the designee of the director and librarian approves the request, the original record may be destroyed.

(d) In lieu of destruction, the director and librarian may require that the original record be transferred to the custody of the commission.

(e) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time to the records management officer or custodian. The original records may not be destroyed until the microfilm of the records is brought into compliance with this chapter and the rules adopted under it as evidenced by the submission of a new destruction authorization request.

(f) The director and librarian shall determine the form and manner of submission of destruction authorization requests required by this section.

Sec. 204.009. **Microfilm of Permanent Records to be Supplied.** [71st Leg., 1989]

(a) A local government or elected county officer, at the request of the director and librarian, shall supply to the commission a copy of the microfilm of any permanent record to which access is not restricted by law.

(b) The commission shall reimburse the local government or elected county officer for the cost of the copy. If the film duplication is performed by the local government or elected county officer, the cost must be the same as that paid by state agencies to the Texas State Library for a similar microfilm copy. If the film duplication is done by a commercial microfilming service under contract with the local government or elected county officer, the cost of the copy may not exceed the cost paid by the local government or elected county officer for a copy under the contract.

(c) The director and librarian or an employee of the commission may not provide certified copies of a record on microfilm obtained under this section without the consent of the original local custodian of the record.

Sec. 204.010. **Commercial Microfilm Storage Facilities.** [71st Leg., 1989]

(a) The commission may establish a program for the certification of commercial microfilm storage facilities for the storage of the master microfilm negatives of local government records.

(b) If the commission establishes a certification program, the procedures of this subsection apply. On request by the commercial storage facility, the director and librarian, or the representative of the director and librarian, shall inspect the facility to determine if the facility meets the minimum standards established by the commission under Section 204.004 for the storage of the microfilm of local government records. If the commercial storage facility meets the minimum standards established by the commission, the name of the facility shall be added to a list of certified storage facilities to be prepared by the director and librarian and made available on request to a local government, elected county officer, or other interested party. The inspection and certification of commercial storage facilities shall be on a fee basis to be determined by the commission.

(c) The commission shall determine the period a certification made under this section is effective.

Sec. 204.011. **Effective as Original Record.** [71st Leg., 1989]

(a) A microfilmed record created in compliance with this chapter and rules adopted under it, including microfilm validated by Section 204.003, is an original record and shall be accepted by any court or administrative agency of this state.

(b) If issued and certified by a local government recordkeeper, a copy on paper or film of a microfilmed record shall be accepted by a court or administrative agency of this state as a certified copy of an original record.

Chapter 205. ELECTRONIC STORAGE OF RECORDS.

Sec. 205.001. **Definitions.** [71st Leg., 1989]

In this chapter:

(1) "Electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

(2) "Local government record data" means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section 201.003.

(3) "Source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Sec. 205.002. **Authorization.** [71st Leg., 1989]

Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Sec. 205.003. **Standards and Procedures to be Adopted.** [71st Leg., 1989]

(a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.

(b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:

(1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;

(2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;

(3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;

(4) standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and

(5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Sec. 205.004. **Rules to be Updated.** [71st Leg., 1989]

The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Sec. 205.005. **Supreme Court Rules.** [71st Leg., 1989]

This chapter is not intended to conflict with Subchapter I, Chapter 51, Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Sec. 205.006. **Index.** [71st Leg., 1989]

An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Sec. 205.007. **Electronic Storage Authorization Requests.** [71st Leg., 1989]

(a) Before the electronic storage of any local government record data of permanent value or, if stipulated in commission rules, any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission, an electronic storage authorization request shall be submitted to the director and librarian for approval.

(b) Electronic storage authorization requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designated under Section 203.025, by the custodian of the local government record data to be stored electronically.

(c) If the director and librarian or the designee of the director and librarian approves the request, the local government record data may be stored electronically.

(d) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time to the records management officer or custodian. Electronic storage of the local government record data may not take place until an electronic storage authorization request receives the approval of the director and librarian or the designee of the director and librarian.

(e) The director and librarian or the designee of the director and librarian may disapprove an electronic storage authorization request only if the standards and procedures proposed for the electronic storage of the local government record data are in violation of this chapter or rules adopted under it.

(f) The director and librarian shall determine the form and manner of submission of authorization requests required by this chapter.

Sec. 205.008. **Destruction of Source Documents.** [71st Leg., 1989]

(a) The source document, if any, for electronically stored local government record data covered by Section 205.007(a) may be destroyed or returned to the person who filed it for record if the electronic storage authorization request is approved.

(b) The magnetic tape, optical disk, or similar medium containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.

(c) The source document, if any, for electronically stored local government record data not covered by Section 205.007(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the media are retained for the retention period in the schedule. Conversely, the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by Section 205.007(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Sec. 205.009. **Denial of Access Prohibited.** [71st Leg., 1989]

A person under contract or agreement with a local government or elected county officer to create, file, or store local government record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and usable by the local government.

Title 8. **ACQUISITION, SALE, OR LEASE OF PROPERTY.**
Subtitle A. **MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY.**
Chapter 251. **MUNICIPAL RIGHT OF EMINENT DOMAIN.**

Sec. 251.001. **Right of Eminent Domain.** [70th Leg., 1987]

(a) When the governing body of a municipality considers it necessary, the municipality may exercise the right of eminent domain for a public purpose to acquire public or private property, whether located inside or outside the municipality, for any of the following purposes:

(1) the providing, enlarging, or improving of a city hall; police station; jail or other law enforcement detention facility; fire station; library....

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(b) A municipality condemning land under this section may take a fee simple title to the property if the governing body expresses the intention to do so.

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Chapter 252. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES.

Subchapter A. General Provisions.

Sec. 252.001. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this chapter:

(1) "Bond funds" includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" includes money in the treasury, taxes in the process of being collected in the current tax year, and all other revenue that may be anticipated with reasonable certainty in the current tax year.

(4) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications equipment and radio and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(6) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Time warrant" includes any warrant issued by a municipality that is not payable from current funds.

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Subchapter B. Competitive Bidding or Competitive Proposals Required.

Sec. 252.021. **Competitive Bidding and Competitive Proposal Requirements.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) Before a municipality with 50,000 or more inhabitants may enter into a contract that requires an expenditure of more than $10,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals.

(b) Before a municipality with fewer than 50,000 inhabitants may enter into a contract that requires an expenditure of more than $5,000, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals.

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(c) A municipality may use the competitive sealed proposal procedure only for high technology procurements.

Sec. 252.022. **General Exemptions.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) This chapter does not apply to an expenditure for:

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(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

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(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials;

(8) a purchase of rare books, papers, and other library materials for a public library;

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Subchapter C. **Procedures.**

Sec. 252.042. **Requests for Proposals for High Technology Procurements.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) Requests for proposals made under Section 252.021 must solicit quotations and must specify the relative importance of price and other evaluation factors.

(b) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the governing body of the municipality may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions may be permitted after submissions and before the award of the contract.

Sec.252.043. **Award of Contract.** [70th Leg., 1987]

(a) If the competitive sealed bidding requirement applies to the contract, the contract must be awarded to the lowest responsible bidder. The governing body may reject any and all bids.

(b) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

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Sec. 252.049. **Confidentiality of Information in Bids or Proposals.** [70th Leg., 1987]

(a) Trade secrets and confidential information in competitive sealed bids are not open for public inspection.

(b) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

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Subchapter D. **Enforcement.**

Sec. 252.062. **Criminal Penalty.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Sec. 252.063. **Removal; Ineligibility.** [71st Leg., 1989]

(a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

Subtitle B. COUNTY ACQUISITION, SALE OR LEASE OF PROPERTY.

Chapter 261. COUNTY RIGHT OF EMINENT DOMAIN.

Sec. 261.001. **Right of Eminent Domain.** [70th Leg., 1987]

(a) A county may exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way if the acquisition is necessary for the construction of a jail, courthouse, hospital, or library, or for another public purpose authorized by law.

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Chapter 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES.

Subchapter C. **Competitive Bidding in General.**

Sec. 262.021. **Short Title** [70th Leg., 1987]

This subchapter may be cited as the County Purchasing Act.

Sec. 262.022. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this subchapter:

(1) "Bond funds" means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

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(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

(4) "High technology item" means a service, equipment, or good of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications, radio, and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Item" means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items.

(6) "Purchase" means any kind of acquisition, including a lease, of an item.

(7) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(9) "Time warrant" means any warrant issued by a county that is not payable out of current funds.

Sec. 262.023. **Competitive Bidding and Competitive Proposal Requirements.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding $10,000, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter. All bids or proposals must be sealed.

(b) The competitive bidding and competitive proposal requirements established by Subsection (a) apply only to contracts for which payment will be made from current funds or bond funds or through time warrants. However, contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(c) In applying the competitive bidding and competitive proposal requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the competitive bidding and competitive proposal requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the competitive bidding requirements of this subchapter is not present.

Sec. 262.024. **Exemptions.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

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(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

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(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

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Sec. 262.027. **Awarding of Contract.** [70th Leg., 1987]

(a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall:

(1) award the contract to the responsible bidder who submits the lowest and best bid; or

(2) reject all bids and publish a new notice.

(b) If two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility.

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Sec. 262.030. **Alternative Competitive Proposal Procedure for Insurance or High Technology Items.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) The competitive proposal procedure provided by this section may be used for the purchase of insurance or high technology items. Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(b) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(c) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Sec. 262.0305. **Modification After Award.** [71st Leg., 1989]

(a) After award of a contract but before the contract is made, the county official who makes purchases for the county may negotiate a modification of the contract if the modification is in the best interests of the county and does not substantially change the scope of the contract or cause the contract amount to exceed the next lowest bid.

(b) For the modified contract to be effective, the commissioners court must approve the contract.

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Sec. 262.034. **Criminal Penalties.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

(b) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 262.023, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Sec. 262.035. **Removal; Ineligibility.** [71st Leg., 1989]

(a) The final conviction of a county officer or employee for an offense under Section 262.034(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

(2) to be employed by the county with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that county.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

Chapter 263. SALE OR LEASE OF PROPERTY BY COUNTIES.

Subchapter D. Disposition of Salvage or Surplus Property.

Sec. 263.151. **Definitions.** [70th Leg., 1987; Amended 71st Leg., 1989]

In this subchapter:

(1) "Salvage property" means personal property, other than items routinely discarded as waste, that because of use, time, accident or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended.

(2) "Surplus property" means personal property that:

(A) is not salvage property or items routinely discarded as waste;

(B) is not currently needed by its owner;

(C) is not required for the owner's foreseeable needs; and

(D) possesses some usefulness for the purpose for which it was intended.

Sec. 263.152. **Disposition.** [70th Leg., 1987; Amended 71st Leg., 1989]

The commissioners court of a county may:

(1) periodically sell the county's surplus or salvage property by competitive bid or auction;

(2) offer the property as a trade-in for new property of the same general type if the commissioners court considers that action to be in the best interests of the county; or

(3) order any of the property to be destroyed or otherwise disposed of as worthless if the commissioners court undertakes to sell that property under Subdivision (1) and is unable to do so because no bids are made.

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Sec. 263.155. **Record.** [70th Leg., 1987; Amended 71st 1989]

(a) The commissioners court shall keep a record of each item of surplus or salvage property sold and the sale price of each item.

(b) The commissioners court shall keep, for one year, a record of each item of surplus or salvage property destroyed or otherwise disposed of.

Sec. 263.156. **Proceeds.** [70th Leg., 1987]

Unless otherwise provided by law, the commissioners court shall deposit the proceeds from the sale of surplus or salvage property:

(1) in the county treasury to the credit of the general fund or the fund from which the property was purchased; or

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Subtitle C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT.

Chapter 271. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS.

Subchapter C. Certificate Of Obligation Act.

Sec. 271.041. **Short Title.** [70th Leg., 1987]

This subchapter may be cited as the Certificate of Obligation Act of 1971.

Sec. 271.042. **Purpose; Conflict.** [70th Leg., 1987]

(a) It is the purpose of this subchapter to provide:

(1) a procedure for certain financing that is an alternative to the more cumbersome procedure under Chapter 252 of this code and the Bond and Warrant Law of 1931 (Article 2368a, *Vernon's Texas Civil Statutes*); and

(2) a new class of securities to be issued and delivered within the financial capabilities of an issuer on compliance with the procedures prescribed by this subchapter.

(b) If there is a conflict between a provision of this subchapter and a provision of either Chapter 252 of this code or the Bond and Warrant Law of 1931 (Article 2368a, *Vernon's Texas Civil Statutes*), an issuer may use either provision, and it is not necessary for the governing body to designate the law under which action is being taken.

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Sec. 271.044. **Subchapter Available to Certain Municipalities.** [70th Leg., 1987]

(a) A municipality may use this subchapter only if the municipality:

(1) is incorporated under the home-rule amendment to the constitution (Article XI, Section 5, of the Texas Constitution); or

(2) is incorporated under a general or special law and the municipality has the authority to levy an ad valorem tax of not less than $1.50 on each $100 valuation of taxable property in the municipality.

(b) A home-rule municipality may use this subchapter regardless of any provision in the municipality's charter to the contrary.

Sec. 271.045. **Purposes for Which Certificates may be Authorized.** [70th Leg., 1987]

(a) The governing body of an issuer may authorize certificates to pay a contractual obligation to be incurred for the:

(1) construction of any public work;

(2) purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way for authorized needs and purposes; or

(3) payment of contractual obligations for professional services, including services provided by tax appraisal engineers, engineers, architects, attorneys, map makers, auditors, financial advisors, and fiscal agents.

(b) If necessary because of change orders, certificates may be authorized in an amount not to exceed 25 percent of a contractual obligation incurred for the construction of public works, but certificates may be delivered only in the amount necessary to discharge contractual obligations.

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Subchapter D. **State Cooperation in Local Purchasing Programs.**

Sec. 271.081. **Definition.** [70th Leg., 1987]

In this subchapter, "local government" means a county, municipality, special district, school district, junior college district, or other legally constituted political subdivision of the state.

Sec. 271.082. **Purchasing Program.** [70th Leg., 1987]

(a) The State Purchasing and General Services Commission shall establish a program by which the commission performs purchasing services for local governments. The services must include:

(1) the extension of state contract prices to participating local governments when the commission considers it feasible;

(2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the commission and is desired by the local government; and

(3) provision of information and technical assistance to local governments about the purchasing program.

(b) The commission may charge a participating local government an amount not to exceed the actual costs incurred by the commission in providing purchasing services to the local government under the program.

(c) The commission may adopt rules and procedures necessary to administer the purchasing program.

Sec. 271.083. **Local Government Participation.** [70th Leg., 1987]

(a) A local government may participate in the purchasing program of the commission by filing with the commission a resolution adopted each year by the governing body of the local government requesting that the local government be allowed to participate and stating that the local government will:

(1) designate an official to act for the local government in all matters relating to the program, including the designation of specific contracts in which the local government desires to participate, and that the governing body will direct the decisions of the representative;

(2) purchase from the contracts made under this subchapter, except in emergencies;

(3) be responsible for payment directly to the vendor under each contract; and

(4) be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

Title 9. **PUBLIC BUILDINGS.**
Subtitle A. **MUNICIPAL PUBLIC BUILDINGS.**
Chapter 281. **MUNICIPAL CIVIC CENTER AUTHORITIES.**
Subchapter D. **Powers and Duties.**

Sec. 281.044. **Facilities.** [70th Leg., 1987]

(a) An authority may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain all or a designated part of:

(1) a public improvement such as a civic center, civic center building, auditorium, opera house, music hall, exhibition hall, coliseum, museum, library, recreational building or facility, or other public building or related facility; or

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Sec. 281.046. **Contracts.** [70th Leg., 1987]

(a) An authority contracts in the name of the authority.

(b) An authority may contract with the United States, this state, or a political subdivision or governmental agency of the United States or this state, for furnishing all or a part of the authority's services or facilities or for the joint ownership and operation of facilities, improvements, or equipment necessary to accomplish a purpose permitted by the authority.

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Subchapter F. **Contracts With Civic Center Authorities.**

Sec. 281.091. **Authorization; Purposes.** [70th Leg., 1987]

On terms a municipality considers desirable, fair, and advantageous and with the approval of a majority of the governing body, a municipality may make a contract with civic center authority under which the authority, for the benefit of the municipality, exercises its authority under Section 281.044. Under the contract, the authority may provide to the municipality all or part of its authorized services and facilities, in or out of the municipality's boundaries. The term of the contract may not be longer than 40 years.

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Subtitle C. **PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT.**
Chapter 305. **MISCELLANEOUS PUBLIC BUILDING PROVISIONS AFFECTING MUNICIPALITIES AND COUNTIES.**

Sec. 305.001. **Joint Construction and Maintenance of Buildings by Certain Counties and Municipalities.** [70th Leg., 1987]

(a) This section applies only to a municipality with 2,000 or more inhabitants that is located more than 10 miles from the county seat of the county in which the municipality is located, and to the county in which the municipality is located.

(b) The county and the municipality may jointly own, construct, equip, enlarge, and maintain a building in the municipality, to be used by the justice of the peace, for county branch offices, for a county library, and for a city hall. The county and the municipality must hold in joint ownership the title to the land on which the building stands.

(c) The cost of construction of the building shall be paid from current income and funds on hand, as provided in the budgets or the tax levies of the county and municipality. Annual expenses for the operation and maintenance of the building shall be budgeted by the county and the municipality.

(d) The county and the municipality shall specify in a contract between them:

(1) the amount or proportionate share of the cost of construction and equipment that each party shall contribute;

(2) the party with authority to award contracts, or the fact that awards are to be made by action of both parties;

(3) the account in which funds contributed under Subdivision (1) shall be deposited; and

(4) the procedure by which disbursements from that account shall be authorized.

(e) The contract may provide for:

(1) the appointment of a committee or board to operate and maintain the building;

(2) the delegation of operation and maintenance responsibility to either of the parties; or

(3) the division of annual operation and maintenance expenses between the parties.

Title 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES.

Subtitle A. MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES.

Chapter 315. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES.

Sec. 315.005. **Municipal Library In Type A General-Law Municipality.** [70th Leg., 1987]

A Type A general-law municipality may establish a free library in the municipality, adopt rules for the proper management of the library, and appropriate municipal revenues for the library's management or improvement.

Subtitle B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES.

Chapter 323. COUNTY LIBRARIES.

Subchapter A. County Library.

Sec. 323.001. **Establishment and Maintenance.** [70th Leg., 1987]

(a) The commissioners court of a county may, on its own motion, and shall, on petition by a majority of the voters of the affected part of the county, establish, maintain, and operate a free county library for the area of the county located outside the municipalities that maintain free public libraries.

(b) The county library shall be located at the county seat in the courthouse unless a more suitable location is available.

Sec. 323.002. **Maintenance Funds.** [70th Leg., 1987]

The commissioners court annually may set aside from the general fund or the permanent improvement fund of the county an amount to be used to maintain or to make a permanent improvement or acquire land for the county library. The amount may not exceed 12 cents on the $100 valuation of all property:

(1) located in the county outside the municipalities that are supporting a free public library and that are not participating in the county library system; and

(2) located within the municipalities that are supporting a free public library and that have elected to become a part of the county library system.

Sec. 323.003. **Gifts.** [70th Leg., 1987]

The commissioners court may receive a gift, bequest, or devise for the county library or a branch or subdivision of the library. Title to property given, bequeathed, or devised to the county library vests in the county. A gift or bequest made for the benefit of a branch of the library shall be administered as designated by the donor.

Sec. 323.004. **Farmers' County Library.** [70th Leg., 1987]

In a county that has a farmers' county library established under prior law, the library shall continue to operate as a farmers' county library, but if a county library is established in the county, the farmers' county library shall become a part of the county library.

Sec. 323.005. **Librarian.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) If a county library is established, the commissioners court shall employ a county librarian. A person holds the position of county librarian at the pleasure of the commissioners court.

(b) A person is not eligible for appointment as a county librarian unless the person has first obtained from the Texas State Library and Archives Commission a county librarian's certificate of qualification. If a person has received the certificate and has served as a county librarian, further examination and certification by the commission is not required for employment or reemployment of the person as a county librarian. Before beginning to perform duties, a person employed as county librarian must file with the county clerk the official oath, and at the discretion of the commissioners court, execute a bond conditioned that the person will faithfully perform the duties of the position. The bond must be in an amount determined by the commissioners court and must be purchased from sufficient sureties approved by the county judge.

(c) The county librarian shall attempt to provide equal and complete service to all areas of the county through branch libraries and deposit stations in schools and other suitable locations and shall distribute books, other printed matter, and other educational materials as quickly as circumstances permit. The librarian may make rules for the operation of the county library, establish branch libraries and deposit stations in the county, determine the number and type of employees needed by the library, and hire and dismiss the employees in the same manner as provided by the commissioners court for other county departments. The librarian shall, subject to the general rules adopted by the commissioners court, develop and manage the library in accordance with accepted rules of library management and shall determine which books and library equipment will be purchased.

(d) On or before October 1 of each year, the county librarian shall report to the commissioners court and the state librarian on the operation of the county library during the year ending on the preceding August 31. The report must be made on a form furnished by the state librarian and must contain a statement of the condition of the library and a statement of its operation during the year and must contain financial and book statistics customarily kept by well-regulated libraries.

Sec. 323.006. **Supervision.** [70th Leg., 1987]

The county library is under the general supervision of the commissioners court. It is also under the supervision of the state librarian who, in person or by an assistant, shall periodically visit the library, inquire as to its condition, advise the librarian and the commissioners court about the library, and give whatever assistance possible in matters that relate to the library.

Sec. 323.007. **Library Fund.** [70th Leg., 1987]

Funds of the county library shall be deposited in a separate fund to be known as the county free library fund and may be used only for library purposes. The funds are under the custody of the county treasurer or any other county official designated to discharge the duties commonly assigned to the county treasurer.

Sec. 323.008. **Participation With a Municipality.** [70th Leg., 1987]

(a) If a county library is established, the governing body of a municipality that maintains a free public library may notify the commissioners court that the municipality desires to become a part of the county library system. After the notice is given, the municipality is considered to be a part of the system, and the residents of the municipality are entitled to the benefits of the library. Property in the municipality shall be included in determining the amount to be set aside in the county free library fund for county library purposes.

(b) The commissioners court of a county that has established a county library may contract with the governing body of a municipality that maintains a free public library to extend county library privileges to the municipality's residents to the extent and for consideration as the parties may agree. The consideration paid by the municipality shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the municipality.

(c) After a municipality has been a part of the county library system for two years, the governing body of the municipality may withdraw from the system by giving notice of its intention to do so to the commissioners court. The notice must be given at least six months before the withdrawal. On withdrawal, the municipality is no longer entitled to participate in the benefits of the system, and the property located in the municipality may not be included in computing the amount to be set aside for county library purposes. Before the governing body may give the notice of withdrawal to the commissioners court or before the governing body may retract the notice of withdrawal after it has been given to the commissioners court, the governing body must publish another notice once a week for six consecutive weeks in a county newspaper circulated throughout the municipality and designated by the governing body. The published notice must state the nature of the proposed action and the date and location of the meeting at which the proposed action is to be taken.

Sec. 323.009. **Participation With A County.** [70th Leg., 1987]

(a) The commissioners court of a county that has established a county library may contract with the commissioners court of another county to extend county library privileges to the residents of the other county to the extent and for the consideration as the parties may agree. The consideration received from the other county shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the other county.

(b) The other county may provide for a county free library fund in the same manner in which a county that establishes a county library may provide for the fund. The purpose of the fund is to carry out a contract made by the other county under Subsection (a).

(c) If the other county makes a contract under Subsection (a), it is not prohibited from establishing its own county library under this subchapter, and if it does so, it may terminate the contract on mutually agreeable terms or may continue under the contract until expiration of its term.

Sec. 323.010. **Joint Library.** [70th Leg., 1987]

(a) The commissioners court of a county may establish in cooperation with other counties a joint free county library for the benefit of the cooperating counties.

(b) The commissioners courts of two or more adjacent counties may jointly establish and maintain a free library under the terms and provisions established by this subchapter for the establishment and maintenance of a free county library. In doing so, the commissioners courts of the participating counties shall operate jointly in the same manner as the commissioners court of a single county. The participating counties have the same powers and are subject to the same liabilities under this subchapter as a single county.

(c) If a county withdraws from the joint county library, it is entitled to a division of property according to terms agreed on at the time the library was established.

Sec. 323.011. **Participation With an Established Library.** [70th Leg., 1987]

(a) Instead of establishing a county library, the commissioners court of a county may, on petition of a majority of the voters in the county, contract for library privileges from an established library.

(b) The contract must provide that the established library assume the functions of a county library within the county, including municipalities in the county, and must provide that the librarian of the established library hold or secure a county librarian's certificate from the Texas State Library and Archives Commission. The commissioners court may contract to pay annually to the established library out of the county free library fund an amount on which the parties may agree.

(c) Either party to the contract may terminate it by giving to the other party six months' notice of its intention to do so. Property acquired under the contract is subject to division on termination of the contract on terms specified in the contract.

Sec. 323.012. **Participation With a Privately Owned Library.** [70th Leg., 1987]

The commissioners court of a county that has established a county library may contract with a privately owned library that serves an area of the county not adequately served by the county library to provide county library service to that area. The contract may require that the privately owned library submit to any reasonable regulation that is imposed on governmental libraries.

Sec. 323.013. **Discontinuation of Library.** [70th Leg., 1987]

A county library may be discontinued on petition of a majority of the voters in that part of the county that maintains the library. The commissioners court shall, on termination of existing contracts, call in and inventory all books and other movable property of the discontinued library and shall store the property under lock and seal in a suitable place in the county courthouse.

Subchapter B. **County Law Library.**

Sec. 323.021. **Establishment and Maintenance.** [70th Leg., 1987]

(a) The commissioners court of a county by order may establish and maintain a county law library at the county seat.

(b) The commissioners court shall provide suitable space for housing the library at a place that is both convenient and accessible to the judges and litigants of the county. The commissioners court may, with the advice of the committee created under Section 323.024, use funds collected under this subchapter to acquire a location for the library, though priority in the use of funds shall be given to the acquisition of books, periodicals, other library materials, and staff for the library. The commissioners court may appropriate an amount not to exceed $20,000 to establish the library and shall annually appropriate an amount necessary for the proper maintenance and operation of the library.

Sec. 323.022. **Gifts.** [70th Leg., 1987]

The commissioners court may receive any gift or bequest to the law library. Title to a gift or bequest vests in the county. A conditional gift or bequest shall be administered as designated by the donor.

Sec. 323.023. **Law Library Fund.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) A sum set by the commissioners court not to exceed $20 shall be taxed, collected, and paid as other costs in each civil case filed in a county or district court, except suits for delinquent taxes. The county is not liable for the costs.

(b) The clerks of the respective courts shall collect the costs and pay them to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the county law library fund. The fund may be used only for the purpose of establishing the law library after the entry of the order creating it or for the purpose of purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library.

(c) The county law library fund shall be administered by or under the direction of the commissioners court.

Sec. 323.024. **Management.** [70th Leg., 1987]

(a) The commissioners court of a county that has established a law library under this subchapter shall adopt rules for the use of books in the county law library.

(b) The commissioners court may vest management of the library in a committee selected by the county bar association. Actions of the committee are subject to approval by the commissioners court.

Sec. 323.025. **Claims.** [70th Leg., 1987]

A claim against the law library shall be handled as other claims against the county.

Subtitle C. **PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT.**

Chapter 331. **MUNICIPAL AND COUNTY AUTHORITY TO ACQUIRE AND MAINTAIN PARKS, MUSEUMS, AND HISTORIC SITES.**

Sec. 331.002. **Acquisition of Historic Objects.** [70th Leg., 1987]

A municipality or county may acquire by gift or purchase, individually or in a collection, any historic book, painting, sculpture, coin, or other object or collection of historical significance to the municipality or county.

Title 11. **PUBLIC SAFETY.**
Subtitle B. **COUNTY PUBLIC SAFETY.**
Chapter 351. **COUNTY JAILS AND LAW ENFORCEMENT.**
Subchapter C. **Operation Of County Jails.**

Sec. 351.0415. **Commissary Operation by Sheriff.** [71st Leg., 1989]

(a) The sheriff of a county with a population of under 200,000 according to the last federal census may operate...a commissary for the use of the prisoners committed to the county jail....

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(c) The sheriff may use commissary proceeds only to:

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(4) fund, staff, and equip a library for the educational use of county prisoners.

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Title 12. **PLANNING AND DEVELOPMENT.**
Subtitle A. **MUNICIPAL PLANNING DEVELOPMENT.**
Chapter 372. **IMPROVEMENT DISTRICTS IN MUNICIPALITIES.**
Subchapter A. **Public Improvement Districts.**

Sec. 372.001. **Short Title.** [70th Leg., 1987]

This subchapter may be cited as the Public Improvement District Assessment Act.

Sec. 372.002. **Exercise of Powers.** [70th Leg., 1987]

Powers granted under this subchapter may be exercised by a municipality in which the governing body of the municipality initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005.

Sec. 372.003. **Authorized Improvements.** [70th Leg., 1987; Amended 71st Leg., 1989]

(a) If the governing body of a municipality finds that it promotes the interests of the municipality, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or the municipality's extraterritorial jurisdiction.

(b) A public improvement project may include:

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(6) acquisition, construction, or improvement of libraries;

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(12) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;

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(14) payment of expenses incurred in the establishment, administration, and operation of the district.

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NATURAL RESOURCES CODE

Title 8. **ACQUISITION OF RESOURCES.**
Chapter 182. **TEXAS HISTORICAL RESOURCES DEVELOPMENT COUNCIL.**

Subchapter B. **Administrative Provisions.**

Sec. 182.011. **Creation of Council.**

To encourage the best use of the unique historical resources of this state, the Texas Historical Resources Development Council is created.

Sec. 182.012. **Council Membership.** [Amended 70th Leg., 1987]

(a) The council consists of the following ex officio members:

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(2) the director and librarian of the Texas State Library;

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Sec. 182.014. **Council Officers.**

The executive director of the Texas Historical Commission is chairman of the council, and the director and librarian of the Texas State Library is the secretary.

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Sec. 182.017. **Use and Provision of Services of Certain Agencies.** [Amended 70th Leg., 1987]

The council may use the services and facilities of the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Department of Commerce, the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee, and these services and facilities may be made available on request to the extent practicable without reimbursement for them.

Subchapter C. **Powers and Duties.**

Sec. 182.041. **Communication Between Agencies.** [Amended 70th Leg., 1987]

The council shall establish communication between the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Department of Commerce, the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee in order to coordinate the efforts of these agencies to develop and publicize the historical resources of this state.

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PENAL CODE

Title 7. OFFENSES AGAINST PROPERTY.
Chapter 28. ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION.

Sec. 28.03. **Criminal Mischief.** [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) A person commits an offense if, without the effective consent of the owner:

(1) he intentionally or knowingly damages or destroys the tangible property of the owner;

(2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person; or

(3) he intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided for by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than $20; or

(B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is $20 or more but less than $200;

(3) a Class A misdemeanor if the amount of pecuniary loss is $200 or more but less than $750;

(4) a felony of the third degree if:

(A) the amount of pecuniary loss is $750 or more but less than $20,000;

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(5) a felony of the second degree if the amount of the pecuniary loss is $20,000 or more.

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Sec. 28.04. **Reckless Damage or Destruction.** [63rd Leg., 1973]

(a) A person commits an offense if, without the effective consent of the owner, he recklessly damages or destroys property of the owner.

(b) An offense under this section is a Class C misdemeanor.

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Sec. 28.06. **Amount of Pecuniary Loss.** [63rd Leg., 1973; Amended 68th Leg., 1983]

(a) The amount of pecuniary loss under this chapter, if the property is destroyed, is:

(1) the fair market value of the property at the time and place of the destruction; or

(2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the destruction.

(b) The amount of pecuniary loss under this chapter, if the property is damaged, is the cost of repairing or restoring the damaged property within a reasonable time after the damage occurred.

(c) The amount of pecuniary loss under this chapter for documents, other than those having a readily ascertainable market value, is:

(1) the amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or

(2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of the destruction or damage if the document is other than evidence of a debt.

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c) of this section, the amount of loss is deemed to be greater than $200 but less than $750.

(e) If the actor proves by a preponderance of the evidence that he gave consideration for or had a legal interest in the property involved, the value of the interest so proven shall be deducted from:

(1) the amount of pecuniary loss if the property is destroyed; or

(2) the amount of pecuniary loss to the extent of an amount equal to the ratio the value of the interest bears to the total value of the property, if the property is damaged.

Chapter 31. THEFT.

Sec. 31.03. **Theft.** [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if:

(1) it is without the owner's effective consent;

(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

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(e) Except as provided by Subsection (f) of this section, an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than $20;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is $20 or more but less than $200; or

(B) the value of the property stolen is less than $20 and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if:

(A) the value of the property stolen is $200 or more but less than $750; or

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(4) a felony of the third degree if:

(A) the value of the property stolen is $750 or more but less than $20,000....

****

(E) the value of the property stolen is less than $750 and the defendant has been previously convicted two or more times of any grade of theft; or

(5) a felony of the second degree if:

****

(B) the value of the property stolen is $20,000 or more; or

****

(f) An offense described for purposes of punishment by Subsection (e) of this section is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense; and

(2) the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant.

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Title 7. **OFFENSES AGAINST PROPERTY.**

Chapter 28. **ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION.**

Sec. 28.03. **Criminal Mischief.** [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) A person commits an offense if, without the effective consent of the owner:

(1) he intentionally or knowingly damages or destroys the tangible property of the owner;

(2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person; or

(3) he intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided for by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than $20; or

(B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is $20 or more but less than $200;

(3) a Class A misdemeanor if the amount of pecuniary loss is $200 or more but less than $750;

(4) a felony of the third degree if:

(A) the amount of pecuniary loss is $750 or more but less than $20,000;

****

(5) a felony of the second degree if the amount of the pecuniary loss is $20,000 or more.

****

Sec. 28.04. **Reckless Damage or Destruction.** [63rd Leg., 1973]

(a) A person commits an offense if, without the effective consent of the owner, he recklessly damages or destroys property of the owner.

(b) An offense under this section is a Class C misdemeanor.

****

Sec. 28.06. **Amount of Pecuniary Loss.** [63rd Leg., 1973; Amended 68th Leg., 1983]

(a) The amount of pecuniary loss under this chapter, if the property is destroyed, is:

(1) the fair market value of the property at the time and place of the destruction; or

(2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the destruction.

(b) The amount of pecuniary loss under this chapter, if the property is damaged, is the cost of repairing or restoring the damaged property within a reasonable time after the damage occurred.

(c) The amount of pecuniary loss under this chapter for documents, other than those having a readily ascertainable market value, is:

(1) the amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or

(2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of the destruction or damage if the document is other than evidence of a debt.

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c) of this section, the amount of loss is deemed to be greater than $200 but less than $750.

(e) If the actor proves by a preponderance of the evidence that he gave consideration for or had a legal interest in the property involved, the value of the interest so proven shall be deducted from:

(1) the amount of pecuniary loss if the property is destroyed; or

(2) the amount of pecuniary loss to the extent of an amount equal to the ratio the value of the interest bears to the total value of the property, if the property is damaged.

Chapter 31. **THEFT.**

Sec. 31.03. **Theft**. [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if:

(1) it is without the owner's effective consent;

(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

****

(e) Except as provided by Subsection (f) of this section, an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than $20;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is $20 or more but less than $200; or

(B) the value of the property stolen is less than $20 and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if:

(A) the value of the property stolen is $200 or more but less than $750; or

****

(4) a felony of the third degree if:

(A) the value of the property stolen is $750 or more but less than $20,000....

****

(E) the value of the property stolen is less than $750 and the defendant has been previously convicted two or more times of any grade of theft; or

(5) a felony of the second degree if:

****

(B) the value of the property stolen is $20,000 or more; or

****

(f) An offense described for purposes of punishment by Subsection (e) of this section is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense; and

(2) the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant.

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Sec. 31.04. **Theft of Service.** [63rd Leg., 1973]

(a) A person commits theft of service if, with intent to avoid payment for service that he knows is provided only for compensation:

(1) he intentionally or knowingly secures performance of the service by deception, threat, or false token;

(2) having control over the disposition of services of another to which he is not entitled, he intentionally or knowingly diverts the other's services to his own benefit or to the benefit of another not entitled to them; or

****

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service stolen is less than $20;

(2) a Class B misdemeanor if the value of the service stolen is $20 or more but less than $200;

(3) a Class A misdemeanor if the value of the service stolen is $200 or more but less than $750;

(4) a felony of the third degree if the value of the service stolen is $750 or more but less than $20,000;

(5) a felony of the second degree if the value of the service stolen is $20,000 or more.

Title 8. OFFENSES AGAINST PUBLIC ADMINISTRATION.
Chapter 39. ABUSE OF OFFICE.

Sec. 39.01. **Official Misconduct.** [63rd Leg., 1973; Amended 68th Leg., 1983]

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm another, he intentionally or knowingly:

(1) violates a law relating to his office or employment; or

(2) misapplies any thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment.

(b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) of this section is:

(1) a Class C misdemeanor if the value of the use of the thing misapplied is less than $20;

(2) a Class B misdemeanor if the value of the use of the thing misapplied is $20 or more but less than $200;

(3) a Class A misdemeanor if the value of the use of the thing misapplied is $200 or more but less than $750;

(4) a felony of the third degree if the value of the use of the thing misapplied is $750 or more but less than $20,000; and

(5) a felony of the second degree if the value of the use of the thing misapplied is $20,000 or more.

Sec. 39.02. **Official Oppression.** [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) A public servant acting under color of his office or employment commits an offense if he:

(1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

(3) intentionally subjects another to sexual harassment.

(b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

[Note: At the time of printing this publication the statute contains two Subsection (c)'s.]

(c) In this section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

(c) An offense under this section is a Class A misdemeanor.

Title 9. **OFFENSES AGAINST PUBLIC ORDER AND DECENCY.**
Chapter 42. **DISORDERLY CONDUCT AND RELATED OFFENSES.**

Sec. 42.01. **Disorderly Conduct.** [63rd Leg., 1973; Amended 68th Leg., 1983]

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) enters on the property of another and for a lewd or unlawful purpose looks into a dwelling on the property through any window or other opening in the dwelling;

(8) while on the premises of a hotel or comparable establishment, for a lewd or unlawful purpose looks into a guest room not his own through a window or other opening in the room;

(9) discharges a firearm in a public place other than a public road;

(10) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(11) discharges a firearm on or across a public road; or

(12) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act.

(b) It is a defense to prosecution under Subsection (a)(4) of this section that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section, an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(9) or (a)(10) of this section, in which event it is a Class B misdemeanor; and further provide that a person who violates Subsection (a)(11) is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than $25 nor more than $200, on a second conviction is punishable by a fine of not less than $200 nor more than $500, and on a third or subsequent conviction is punishable by a fine of $500.

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Sec. 42.03. **Obstructing Highway or Other Passageway.** [63rd Leg., 1973]

(a) A person commits an offense if, without legal privilege or authority, he intentionally, knowingly, or recklessly:

(1) obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances, regardless of the means of creating the obstruction and whether the obstruction arises from his acts alone or from his acts and the acts of others; or

(2) disobeys a reasonable request or order to move issued by a person the actor knows to be or is informed is a peace officer, a fireman, or a person with authority to control the use of the premises:

(A) to prevent obstruction of a highway or any of those areas mentioned in Subdivision (1) of this subsection; or

(B) to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

(b) For purposes of this section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

(c) An offense under this section is a Class B misdemeanor.

Sec. 42.04. **Defense When Conduct Consists of Speech or Other Expression.** [63rd Leg., 1973]

(a) If conduct that would otherwise violate Section 42.01(a)(5) (Unreasonable Noise) or 42.03 (Obstructing Passageway) of this code consists of speech or other communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interests of others which those sections seek to protect.

(b) The order required by this section may be given by a peace officer, a fireman, a person with authority to control the use of the premises, or any person directly affected by the violation.

(c) It is a defense to prosecution under Section 42.01(a)(5) or 42.03 of this code:

(1) that in circumstances in which this section requires an order no order was given;

(2) that an order, if given, was manifestly unreasonable in scope; or

(3) that an order, if given, was promptly obeyed.

Sec. 42.05. **Disrupting Meeting or Procession.** [63rd Leg., 1973]

(a) A person commits an offense if, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

(b) An offense under this section is a Class B misdemeanor.

Sec. 42.06. **False Alarm or Report.** [63rd Leg., 1973; Amended 66th Leg., 1979]

(a) A person commits an offense if he knowingly initiates, communicates or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he knows is false or baseless and that would ordinarily:

(1) cause action by an official or volunteer agency organized to deal with emergencies;

(2) place a person in fear of imminent serious bodily injury; or

(3) prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access, or aircraft, automobile, or other mode of conveyance.

(b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a felony of the third degree.

Sec. 42.07. **Harassment.** [63rd Leg., 1973]

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, he:

(1) initiates communication by telephone or in writing and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;

(2) threatens, by telephone or in writing, in a manner reasonably likely to alarm the person receiving the threat, to inflict serious bodily injury on the person or to commit a felony against the person, a member of his family, or his property;

(3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyer to be false, that another person has suffered death or serious bodily injury;

(4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;

(5) makes a telephone call and intentionally fails to hang up or disengage the connection; or

(6) knowingly permits a telephone under his control to be used by a person to commit an offense under this section.

(b) For purposes of Subsection (a)(1) of this section, "obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.

(c) An offense under this section is a Class B misdemeanor.

Sec. 42.08. **Public Intoxication.** [63rd Leg., 1973; Amended 71st Leg., 1989]

(a) An individual commits an offense if the individual appears in a public place under the influence of alcohol or any other substance, to the degree that the individual may endanger himself or another.

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Chapter 43. PUBLIC INDECENCY.

Subchapter B. Obscenity.

Sec. 43.21. **Definitions.** [63rd Leg., 1973; Amended 66th Leg., 1979]

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Sec. 43.22. **Obscene Display or Distribution.** [63rd Leg., 1973]

(a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor.

Sec. 43.23. **Obscenity.** [63rd Leg., 1973; Amended 66th Leg., 1979]

(a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) An offense under Subsection (a) of this section is a felony of the third degree.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) An offense under Subsection (c) of this section is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

Sec. 43.24. **Sale, Distribution, or Display of Harmful Material to Minor.** [63rd Leg., 1973]

(a) For purposes of this section:

(1) "Minor" means an individual younger than 17 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2) of this section.

(c) It is a defense to prosecution under this section that:

(1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or

(2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) of this section in which event it is a felony of the third degree.

Sec. 43.25. **Sexual Performance by a Child.** [65th Leg., 1977; Amended 69th Leg., 1985]

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 17 years of age.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" has the meaning defined by Section 43.01 of this code.

(8) "Sado-masochistic abuse" has the meaning defined by Section 43.24 of this code.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 17 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 17 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) of this section is a felony of the second degree.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 17 years of age.

(e) An offense under Subsection (d) of this section is a felony of the third degree.

(f) It is an affirmative defense to a prosecution under this section that:

(1) the defendant, in good faith, reasonably believed that the child who engaged in the sexual conduct was 17 years of age or older;

(2) the defendant was the spouse of the child at the time of the offense;

(3) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or

(4) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 of this code to determine whether a child who participated in sexual conduct was younger than 17 years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by the rules of evidence at common law.

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Sec. 43.26. **Possession or Promotion of Child Pornography.** [Amended 71st Leg., 1989]

(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses material containing a film image that visually depicts a child younger than 17 years of age at the time the film image of the child was made who is engaging in sexual conduct; and

(2) the person knows that the material depicts the child as described by Subdivision (1) of this subsection.

(b) In this section:

(1) "Film image" includes a photograph, slide, negative, film, or videotape, or a reproduction of any of these.

(2) "Sexual conduct" has the meaning assigned by Section 43.25 of this code.

(3) "Promote" has the meaning assigned by Section 43.25 of this code.

(c) The affirmative defenses provided by Section 43.25(f) of this code also apply to a prosecution under this section.

(d) An offense under this section is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1) of this section; and

(2) the person knows that the material depicts the child as described by Subsection (a)(1) of this section.

(f) A person who possesses six or more identical film images depicting a child as described by Subsection (a)(1) of this section is presumed to possess the film images with the intent to promote the material.

(g) An offense under Subsection (e) of this section is a felony of the third degree.

Title 10. **OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS.**

Chapter 48. **CONDUCT AFFECTING PUBLIC HEALTH.**

Sec. 48.01. **Smoking Tobacco.** [64th Leg., 1975]

(a) A person commits an offense if he is in possession of a burning tobacco product or smokes tobacco in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, or intrastate bus, as defined by Section 4(b) of the Uniform Act Regulating Traffic on Highways (Article 6701d, *Vernon's Texas Civil Statutes*), plane, or train which is a public place.

(b) It is a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such conveyance and/or public place and that an offense is punishable by a fine not to exceed $200.

(c) All conveyances and public places set out in Subsection (a) of Section 48.01 shall be equipped with facilities for extinguishment of smoking materials and it shall be a defense to prosecution under this section if the conveyance or public place within which the offense takes place is not so equipped.

(d) It is an exception to the application of Subsection (a) if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance.

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(f) An offense under this section is punishable as a Class C misdemeanor.

PROPERTY CODE

Title 4. ACTIONS AND REMEDIES.
Chapter 24. FORCIBLE ENTRY AND DETAINER.

Sec. 24.0062. **Warehouseman's Lien.** [69th Leg., 1985; Amended 70th Leg., 1987]

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(e) On demand by the tenant within 30 days after the date the property is stored by the warehouseman and on payment by the tenant of the moving and storage charges reasonably attributable to the items being redeemed, the warehouseman shall return to the tenant at the warehouse the following property:

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(4) a family library;

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Title 5. LIENS AND EXEMPT PROPERTY.
Chapter 43. EXEMPT PUBLIC PROPERTY.

Sec. 43.001. **Exempt Public Library.**
A public library is exempt from attachment, execution, and forced sale.

Chapter 54. LANDLORD'S LIENS.
Subchapter C. Residential Landlord's Lien.

Sec. 54.042. **Exemptions.** [Amended 69th Leg., 1985]
A lien under this subchapter does not attach to:

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(2) tools, apparatus, and books of a trade or profession;
(3) schoolbooks;
(4) a family library;

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TAX CODE

Title 1. **PROPERTY TAX CODE.**
Chapter 11. **TAXABLE PROPERTY AND EXEMPTIONS.**
Subchapter B. **Exemptions.**

Sec. 11.11. **Public Property.** [Amended 71st Leg., 1989]

(a) Except as provided by Subsections (b) and (c) of this section, property owned by this state or a political subdivision of this state is exempt from taxation if the property is used for public purposes.

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Sec. 11.18. **Charitable Organizations.** [Amended 70th Leg., 1987]

(a) An organization that qualifies as a charitable organization as provided by this section is entitled to an exemption from taxation of the buildings and tangible personal property that:

(1) are owned by the charitable organization; and

(2) except as permitted by Subsection (b) of this section, are used exclusively by qualified charitable organizations.

(b) Use of exempt property by persons who are not charitable organizations qualified as provided by this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by qualified charitable organizations and limited to activities that benefit the beneficiaries of the charitable organizations that own or use the property.

(c) To qualify as a charitable organization for the purposes of this section, an organization, whether operated by an individual, as a corporation, as a foundation, as a trust, or as an association, must meet the applicable requirements of Subsections (d), (e), (f), and (g) of this section.

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsection (h) of this section, engage exclusively in performing one or more of the following charitable functions:

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(5) promoting or operating a museum, zoo, library, theater of the dramatic arts, or symphony orchestra or choir;

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(e) A charitable organization must be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by Subsection (d) of this section other than a function specified in Subdivision (1), (2), (8), (9), (12), or (16), be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act.

(f) A charitable organization must, by charter, bylaw, or other regulation adopted by the organization to govern its affairs:

(1) pledge its assets for use in performing the organization's charitable functions; and

(2) direct that on discontinuance of the organization by dissolution or otherwise:

(A) the assets are to be transferred to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended; or

(B) if required for the organization to qualify as a tax-exempt organization under Section 501(c)(12), Internal Revenue Code of 1986, as amended, the assets are to be transferred directly to the organization's members, each of whom, by application for an acceptance of membership in the organization, has agreed to immediately transfer those assets to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended, as designated in the bylaws, charter, or regulation adopted by the organization.

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(h) Performance of noncharitable functions by a charitable organization that owns or uses exempt property does not result in loss of an exemption authorized by this section if those other functions are incidental to the organization's charitable functions.

(i) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

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Title 2. **STATE TAXATION.**
Chapter 151. **LIMITED SALES, EXCISE, AND USE TAX.**
Subchapter E. **Resale And Exemption Certificates.**

Sec. 151.155. **Exemption Certificate.**

(a) If a purchaser certifies in writing to a seller that a taxable item sold, leased, or rented to the purchaser will be used in a manner or for a purpose that qualifies the sale of the item for an exemption from the taxes imposed by this chapter, and if the purchaser then uses the item in some other manner or for some other purpose, the purchaser is liable for the payment of the sales tax on the fair market rental value for any period during which the item is used in the divergent manner or for the divergent purpose. The fair market rental value is the amount that a purchaser would pay on the open market to rent or lease the property for his use. If the item has no fair market rental value, the original purchase price shall be the measure of the tax. At any time, the person making the divergent use may cease paying tax on the fair market rental value and pay sales tax on the original purchase price without credit for taxes previously paid on the fair market rental value.

(b) A purchaser of tangible personal property who gives an exemption certificate is not liable for the tax imposed by this chapter if he donates the property to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the property other than retention, demonstration, or display shall be subject to taxes imposed by Subsection (a) of this section.

Subchapter H. **Exemptions.**

Sec. 151.309. **Governmental Entities.**

A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following governmental entities is exempted from the taxes imposed by this chapter:

(1) the United States;

(2) an unincorporated instrumentality of the United States;

(3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;

(4) this state; or

(5) a county, city, special district, or other political subdivision of this state.

Sec. 151.310. **Religious, Educational, and Public Service Organizations.** [Amended 68th Leg., 1983]

(a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:

(1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased are related to the purpose of the organization;

(2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code, if the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;

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(c) An organization that qualifies for an exemption under Subsection (a)(1) of this section may hold one tax-free sale or auction during a calendar year and the tax-free sale or auction may continue for one day only. The sale of a taxable item by a qualified organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter. The storage, use, or consumption of a taxable item acquired from a qualified organization at a tax-free sale or auction is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(d) If two or more organizations jointly hold a tax-free sale or auction, neither organization may hold another tax-free sale or auction during the calendar year. The employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c) of this section.

Title 3. **LOCAL TAXATION.**
Subtitle C. **LOCAL SALES AND USE TAXES.**
Chapter 321. **MUNICIPAL SALES AND USE TAX ACT.**
Subchapter C. **Computation of Taxes.**

Sec. 321.207. **Local Tax Inapplicable When no State Tax; Exceptions.** [70th Leg., 1987]

(a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b).

APPROPRIATIONS BILL

Chapter 1263. Article V. **General Provisions.** [71st Leg., 1989]

Sec. 5. **Political Aid and Legislative Influence Prohibited.**

None of the moneys appropriated by Articles I, II, III, and IV of this Act, regardless of their source or character, shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of the state from furnishing to any Member of the Legislature or committee upon request, or to any other state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from state employment.

No funds under the control of any state agency or institution, including but not limited to state appropriated funds, may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of the State of Texas or the government of the United States.

None of the funds appropriated in this Act shall be expended in payment of the salary for full-time employment of any state employee who is also the paid lobbyist of any individual, firm, association or corporation. None of the funds appropriated in this Act shall be expended in payment of the partial salary of a part-time employee who is required to register as a lobbyist by virtue of the employees activities for compensation by or on behalf of industry, a profession or association related to operation of the agency or institution for which the person is employed. A part-time employee may serve as a lobbyist on behalf of industry, a profession or association so long as such entity is not related to the agency with which he or she is employed.

No employee of any state agency shall use any state-owned automobile except on official business of the state, and such employees are expressly prohibited from using such automobile in connection with any political campaign or any personal or recreational activity.

None of the moneys appropriated by this Act shall be paid to any official or employee who violates any of the provisions of this section.

The head or heads of each agency of the state shall furnish each employee of such agency with a copy of the five (5) paragraphs immediately preceding this one, and shall take a receipt therefor from each employee. The preceding sentence shall not be construed to mean that new receipts are to be obtained each year from continuing employees who have previously receipted for copies of identical provisions prohibiting political aid and legislative influence. The receipts shall be kept accessible for public inspection.

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CONCURRENT RESOLUTIONS

ARCHIVES DIVISION OF TEXAS STATE LIBRARY TO REMAIN IN OR NEAR CAPITOL. (S.C.R. No. 7, 45th Legislature – First Called Session, 1937)

WHEREAS, The Archives Division of the Texas State Library is housed in the basement of the Capitol Building; and

WHEREAS, There has come to the notice of the writer recently that the State Library Commission is thinking of removing it to some building not yet designated, belonging to the University of Texas; and

WHEREAS, The Archives Division, containing the records of the Republic of Texas and of the State of Texas, is constantly used by the Legislature, State Departments, Judiciary, and general public, and same is the property of the State of Texas rather than any department or institution thereof; and

WHEREAS, It is imperative that these priceless records should remain in close proximity to the State Capitol and be housed so as to be given more room for assembling and use; now, therefore, be it

RESOLVED, By the Senate of Texas, the House of Representatives concurring, that under no circumstances shall said archives and records be removed from the custody of the Texas State Library and from the Capitol grounds and close proximity; and, be it further

RESOLVED, That the State Board of Control be requested to assign additional space for housing said records and archives of the Division of the Texas State Library in some such convenient building on or near the Capitol Campus in order that they may ever remain where they can be conveniently used by the Legislature and other State Officials who work in the Capitol Building.

SOUTHERN METHODIST UNIVERSITY – POSSESSION OF LEGISLATIVE RECORDS. (S.C.R. No. 81, 65th Legislature, 1977)

WHEREAS, Southern Methodist University has accepted the responsibility for housing certain records of the legislature, more particularly described as records of the Texas Legislative Service Library which include various types of related records, copies of measures as introduced, substitutes, amendments, adopted or not, engrossed documents, enrolled documents, many obtainable committee records, and some arguments pro and con, from 1925 through 1964; and

WHEREAS, This acceptance on the part of Southern Methodist University will entitle graduate students and other interested citizens of Texas the opportunity to review these old records; now, therefore, be it

RESOLVED by the Senate of the 65th Legislature, the House of Representatives concurring, That the physical possession of these records shall be transferred to Southern Methodist University and made available to their students and the general public.

CAPITOL—ARCHIVE WAR MARKER. (H.C.R. No. 58, 66th Legislature, 1979)

WHEREAS, The Archive War of Texas in 1842 determined that Austin would remain the capital of Texas, and this event is a valuable reminder of the importance of proper record keeping by government; and

WHEREAS, In order that the people of Texas and visitors from other states who visit our capitol complex every year might know the importance of the Archive War of Texas, the Travis County Historical Commission and the Texas Historical Commission have provided the capitol complex with a historical marker relating this unique story; and

WHEREAS, It is appropriate that this historical marker be permanently displayed on the capitol grounds in front of the Lorenzo de Zavala State Archives and Library Building for the benefit of all Texas and out-of-state visitors to our beautiful, historic capitol; now, therefore, be it

RESOLVED by the House of Representatives of the State of Texas, the Senate concurring, That the 66th Legislature hereby request the State Board of Control to place the Archive War marker in a suitable permanent position on the capitol grounds in front of the Lorenzo de Zavala State Archives and Library Building; and, be it further

RESOLVED, That an official copy of this resolution be prepared and forwarded to the chairman of the State Board of Control as an expression of the views of the members of the Texas Legislature.

CAPITOL—DISPLAY OF TEXAS HISTORY, CAPITOLS, AND LEGISLATIVE PROCESS. (H.C.R. No. 82, 66th Legislature, 1979)

WHEREAS, The tourist who visit the State Capitol are interested in learning about the history and construction of the capitol and the governmental activities which are conducted within its walls; and

WHEREAS, The presentation by the capitol tour guides would be greatly enhanced by the installation of a permanent exhibit dealing with such topics as the history of Texas, previous capitols of Texas, the history and construction of the present capitol, and the legislative process; and

WHEREAS, There is a display area appropriate for such purposes located in the north wing of the third floor of the capitol; and

WHEREAS, At present, this display area contains a temporary exhibit provided by the Institute of Texas Cultures and needs a more permanent plan for utilization; and

WHEREAS, The installation of a secure glass-encased, maintenance-free exhibit comprised of photographs, written narratives, and artifacts made available through the Texas House of Representatives, State Archives, the Austin-Travis County Collection, The Texas Historical Commission, and other sources would greatly enhance the public's enjoyment and understanding of the State Capitol; now, therefore, be it

RESOLVED by the House of Representatives of the State of Texas, the Senate concurring, That the 66th Legislature hereby direct the Texas Historical Commission, in coordination with the archives division of the Texas State Library, to design a permanent display dealing with the history of Texas, the history and construction of its capitols, and the legislative process; and, be it further

RESOLVED, That the State Board of Control be directed to provide for the construction of this permanent display according to the design plans; and, be it further

RESOLVED, That Mr. Truett Latimer of the Texas Historical Commission be placed in charge of design and coordination of the project, with Dr. David Gracy of the archives division acting as consultant, to assure that the exhibit is authentic and informative; and, be it further

RESOLVED, That, following completion of the project, the Texas Historical Commission be directed to act as curator and the State Board of Control to provide security and maintenance for the display; and, be it further

RESOLVED, That construction of this display be funded by an appropriation of this legislature. The State Board of Control may accept donations of money for construction of the display, and such funds received by the board shall reduce the legislative appropriation by the same amount; and, be it further

RESOLVED, That official copies of this resolution be forwarded to the director of the Texas Historical Commission, the director and librarian of the Texas State Library, and the executive director of the State Board of Control as an expression of the views of the legislature of the State of Texas.

ATTORNEY GENERAL OPINIONS

The following are summaries of Texas Attorney General Opinions which relate to the concerns of all types of libraries. Among the topics which these Opinions address are: county law libraries, public records, the handicapped, employment of librarians, the State Law Library, the Legislative Reference Library and the Texas State Library.

The Opinions are listed in chronological order. The Opinion number is shown together with the year of issuance in parentheses; the first letter or letters refers to the name of the attorney general. Opinions beginning with the letters "ORD" refer to "open records decision," which are numbered sequentially without reference to a specific attorney general. Complete copies of opinions may be obtained from the Attorney General's Office, Box 12548, Austin, Texas 78711-2548.

Background

The weight and authority of Attorney General Opinions in law is a concept which has not been clearly delineated. The following comments may enable the reader to better understand just what these Opinions are and how they should be viewed.

The Attorney General of Texas is required by Article IV, Section 22, of the Texas constitution to render legal advice to the Governor and other executive officers of the State. The list of persons to whom Opinions may be issued is listed in Government Code, Section 402.042, and includes the heads of departments of state government, legislative committees, county auditors, and regents or trustees of state educational institutions. While the authority of the Attorney General to render opinions is constitutionally and statutorily regulated, it is axiomatic that an Attorney General Opinion is not binding on the courts. Some courts have given individual Opinions very great weight and some have rejected them.

The Attorney General acknowledged the limited authority of his own opinions in Attorney General Opinion No. 0-7234-A (1946), where it was stated:

> The opinions of the Attorney General have not the force of law and are legally binding on no one. They may be highly persuasive to the courts but apparently only in those cases where they coincide with the court's view of the law.

The leading case expressing the court's views on the authority of Attorney General Opinion states that opinions "while entitled to careful consideration by the courts, and quite generally regarded as highly persuasive, are not binding on the judiciary...."

Recently, the courts have assessed the status of Attorney General Opinions in light of the Legislature's specific delegation of authority in Section 7 of the Open Records Act. A Texas Court of Civil Appeals stated:

> Normally, opinions of the Attorney General are persuasive but not controlling on the courts. We consider that great weight should be given such opinions when the legislature has specifically delegated to the Attorney General the duty of interpreting the Act and aiding in its enforcement.

Although the courts have generally ruled that Opinions are "advisory in nature," persons who reasonably rely on Attorney General Opinions may be protected from civil and criminal liability, even if the Attorney General has erred in his interpretation. Conversely, the failure to follow the authoritative advice of the Attorney General may be evidence of a lack of good faith.

In summary, Attorney General Opinions are not binding on the courts; however, they are persuasive and the courts may give them great weight. Since the Attorney General is constitutionally and statutorily charged with interpretation of the law upon request by certain persons, reasonable reliance upon an Attorney General Opinion would constitute an affirmative defense to criminal prosecution.

Exercise Caution

One should always exercise caution in interpreting Opinions. The State Legislature may, for example, pass a law which would render a previously issued Opinion inoperable; more recent Opinions may overrule certain parts of previous Opinions, but not the entire previous Opinion; and the Opinions are responses to specific, factual situations in point of time. An attorney should be contacted if you seek further advice.

OPINIONS

O – 520 (1939)	The provisions of Article 1683 relating to certificates of qualification, apply only to those who have received county librarians' certificates prior to the passage of the amendment of such Article.
O – 690 (1939)	The Commissioners Court is without authority to make appropriations of public money to any library controlled and operated by private individuals however worthy the cause may be.
O – 696 (1939)	The Commissioners Court is not authorized to pay for library books purchased under the provisions of Articles 1677-1696, inclusive, out of the public building and improvement funds.
O – 1316 (1939)	The Commissioners Court of Galveston County may contract with the Rosenberg library for library privileges in the manner prescribed by Article 1694 provided there are no restrictions in the will of Mr. Henry Rosenberg prohibiting the same.
O - 1636 (1939)	When an incorporated city does not have and never had a public free library, the inhabitants of such city who are residents of the county have the privileges of using the county library under Articles 1678 and 1688, and the property within the corporate limits of such city is included in computing the amounts to be set aside out of the county general tax fund for the maintenance of the county free library system. It is not necessary, under Articles 1677-1696, for an incorporated city which does not have and has never had a public free library to contract with the county for participation in the county free library system or to make cash contributions for such participation before the inhabitants can enjoy the benefits of the system.
O - 2538 (1940)	As the tax levy for county purposes cannot exceed twenty-five cents on the one hundred dollar valuation, if Llano County should levy five cents for a county library, said amount would come from the twenty-five cent levy allowed for the general fund of the county, which would leave twenty cents on the one hundred dollar valuation for the general fund.
O - 2744 (1940)	The Commissioners Court has no authority to appoint a county librarian who does not have a certificate from the State Board of Examiners; but should such an ineligible person be appointed, he would not legally be entitled to the salary attached to said office. Furthermore, where there is no qualified county librarian in charge of the county free library, the Commissioners Court has no authority to appoint an assistant librarian to serve in the capacity of county librarian.
O - 3055 (1941)	The Commissioners Court has authority to expend funds in establishing, maintaining, and operating a "book-mobile library" as a branch or subdivision of an established county free library located at the county seat.

O - 3409 (1941)	As members of the Texas State Library are not employed, either directly or indirectly, in any public school, college, or university, such members do not come within the provisions of the Teacher Retirement Act, and said act cannot be amended to extend to such persons.
O - 3890 (1941)	The costs incurred in the purchase or establishment or a "bookmobile library," as discussed in Opinion No. O-3055, and the expenses incurred in maintaining and operating the same cannot be paid out of the permanent improvement fund, but must be paid out of the general fund of the county.
O - 3956 (1941)	Under the provisions of H.B. 1080, Acts 1941, 47th Leg., the Commissioners Court is given broad powers in establishing and maintaining a law library and if in their discretion it is necessary, they are authorized to hire a librarian to be compensated out of the "County Law Library Fund."
0 - 3957 (1947)	Under the terms of H.B. 1080, Acts 1941, 47th Leg., probate matters are to be considered among the cases on which the sum of one dollar shall be taxed as cost for the establishment and maintenance of a County Law Library. (Assuming, of course, that the Commissioners Court has first entered its order for that purpose.)
O - 4439 (1942)	Article 1702d is unconstitutional. Therefore, the question must be answered in the negative, and Nueces County may not legally collect the fee of $1.00 in each civil and criminal case and deposit it to the County Law Library Fund to be used in the manner provided for in Article 1702d.
O - 5347 (1943)	Finding no authority and law for the expenditure in question, it is the opinion of this department that the Commissioners Court is not authorized to expend county funds for the purchase of the Annual Pocket Parts to Vernon's Annotated Civil Statutes as a necessary expense in the proper and legal conduct of the office of district clerk.
O - 5511 (1943)	The district and county clerks of Navarro County can not legitimately tax as costs in criminal and civil cases a One Dollar ($1.00) library fee as provided for in Article 1702b-2, supra.
O - 5688 (1943)	Any one of the Courts of Civil Appeals can expend for books for its library during each of the next two biennial years the sum of $500.00, together with any portion of the $500.00 appropriated for "equipment, maintenance and contingent items" not used for said purposes.
O - 5842 (1944)	A special tax cannot be voted by the people of a county for the original or additional county library support. A constitutional amendment would be required to authorize the assessment of a tax for library purposes where the said tax would be additional to the twenty-five cents per hundred dollars valuation.
O - 6094 (1944)	The Commissioners Court may contract for library privileges from some already established library upon its own initiative and without a petition of the majority of the voters of the county.

O - 6243 (1944)	This opinion concerns the authority of the Commissioners Court to enter into contracts with three libraries in Gregg County operated by three incorporated cities providing for the payment of an agreed sum from county funds for the partial support of said libraries.
O - 6441 (1945)	The Commissioners Court may construct a branch library building and pay for same out of the Permanent Improvement Fund. The amount that can be used in such construction is within the discretion of the Commissioners Court but is subject to the provisions of the county budget.
O - 7118 (1946)	A county cannot issue bonds for the purpose of erecting a building to house a free county library. If the Legislature had authorized the issuance of bonds for the erection of the building to house a county library, same would have to be paid out of the constitutional fund commonly known as the Permanent Improvement Fund. There is no other county fund out of which this type improvement could legally be financed.
O - 7319 (1946)	The County Commissioners Court has the authority to issue Time Warrants for certain permanent improvements, including county park improvements and county airport, but not a library and museum building or a youth center. *[Note: this Opinion overrules Opinion O - 4357]*
O - 7539 (1946)	The Commissioners Court of Bexar County may establish a county law library under the provisions of Articles 1697-1702; Article 1702a-1, which applies to counties having five or more District Courts, is not an exclusive method to establish a county law library for Bexar county, but may only be used upon a proper order of the Commissioners Court. The establishment and maintenance of the county law library must be paid out of monies appropriated by the Commissioners Court from the general fund as provided by Article 1698.
V - 397 (1947)	It is the statutory duty of the Commissioners Court to operate the county library, and this duty may not lawfully be delegated to any citizens committee or board. The operation of such library is regulated by statute, and local rules of such board are without authority of law.
V - 435 (1947)	The State Treasury Department is authorized to have photographic reproductions of its records prepared, defraying the cost of this work from the contingent expense appropriation of the State Treasury Department. The State Treasury Department is not authorized to destroy its original records following their photographic reproductions, but it is authorized to transfer the records which have been replaced by photographic reproductions to the State Librarian. The State Librarian is authorized to destroy or further transfer such records.

V - 953 (1949)	A county cannot donate public money to an incorporated public free library. The county is authorized to contract for library privileges from an already established library and pay for the same out of the General Fund of the county.
V - 1071 (1950)	Regarding types of proceedings subject to the County Law Library fee assessed in civil cases: guardianships and other cases in probate court, insanity, and restoration proceedings are civil cases within the meaning of Article 1702e. A habeas corpus proceeding may be either a criminal case or a civil case depending on the facts of each instance. If in the proceeding it appears that the restraint is not because of some supposed violation of criminal law, then the proceeding must be classed as a civil case.
WW - 181 (1957)	Under certain assumptions, the Commissioners Court has the authority to purchase a law library from the legal representative of a deceased District Judge.
WW - 950 (1960)	The Legislature in Article 678m-2, expressed its intention that the Building referred to above should be known as the "State Archives and Library Building" but did not require that such title should be put in permanent form on that Building.
WW - 1423 (1962)	The properties owned by the El Paso County Medical Society furnished by it voluntarily to the public as a public library, but to which the public has access only at the sufferance of the Society as its invitees, are not exempt from ad valorem taxes as a public library under Article 7150, subd. 8, as "public property used for public purposes" within contemplation of Article VIII, Sec. 2 of the Texas Constitution.
WW - 1456 (1962)	Section 3, Article 5441a, does not authorize the destruction of newspapers in print, purchased pursuant to Section 3, Article 5441, even though a microfilm copy of the newspaper is to be preserved and even if the consent of the State Auditor to the destruction of the newspapers is obtained, unless such newspapers are adjudged to be valueless. Article 5441b authorizes the destruction of the newspapers which are over 10 years old, if the procedures of the statute are complied with.
WW - 1494 (1962)	Article 1678, applies to the whole of Hood County, there being no free public library in any incorporated area in the said county. A petition for the establishment of a county free library may be signed by any qualified voter, and a sufficient petition makes it incumbent upon the commissioners court to establish such a library as soon after its presentation as may be practicable. Article 1679, authorizes the Commissioners Court to set aside tax funds to maintain a county free library, and the statute vests discretion in the said court as to the amount set aside.

C - 673 (1966)	Subject to the approval of a new or revised State Plan allowing direct monetary grants to local public library units, the Texas State Library and Historical Commission may make direct monetary grants to local public library units under Title I of the Library Services and Construction Act of 1964, Public Law 88-269, as amended.
M - 828 (1971)	Pursuant to Article 6144g, the Texas Fine Arts Commission may publish a newsletter in which is printed the entire text of a pending Senate bill relating to the fine arts, and solicit the comments of the newsletter's readers on such bill. However, the Commission may not comment that the bill is supported by certain interest groups, the Commission's Chairman may not give his personal opinion regarding the merits, if any, of the bill, and a list of members of the House and the Senate may not be printed in the newsletter.
M - 1114 (1972)	It is our opinion that Article 1137r, Vernon's Penal Code (prohibiting the reproduction for sale of sound recordings without the original owner's consent), is valid and is not in conflict with Article I, Sec. 8, Cl. 8, United States Constitution, or the Copyright Clause, and the implementing federal statutes, 17 USC §§ 1-215, the Copyright Act.
M - 1173 (1972)	The State matching contributions for O.A.S.I. and employee's retirement contributions for employees of the State Law Library required to be matched by the provisions of Section 3 of Article V of the current General Appropriation Act may be transferred into the State Law Library fund, because such deductions and matching contributions constitute a cost of maintaining, operating and keeping up to date the State Law Library. *[Note: this Opinion has been overruled by Opinion H-947 where they conflict]*
M - 1199 (1972)	Forty-five riders contained in the 1971 General Appropriation Act are considered and passed upon as to validity. See this Opinion for specific riders.
H - 91 (1973)	Under the authority of Article 1696a, county commissioners may hold a bond election for the purpose not only of building buildings but also for acquiring books for library purposes.
H - 140 (1973)	The Library and Historical Commission may, under the Library Systems Act, enter into contracts with the governing bodies of major resource centers, if necessary to establish and develop a network of library systems to serve collectively the entire population of the state. If the operation and maintenance of a communications "service" by the Commission meets such criteria, the contracting libraries may pay for the service with funds appropriated for grants-in-aid.
H - 353 (1974)	The Department of Public Welfare may contract with the Texas Library and Historical Commission for the storage and preservation of the file.

H - 420 (1974)	Article 4419e does not, per se, prohibit architectural designs which may amount to a barrier to a handicapped person's use of a public facility unless such design is intentionally formulated to prevent or discourage such use.
H - 467 (1974)	A city's library board which acts solely in an advisory capacity and has no rule-making or quasi-judicial power is not required to comply with the mandates of the Open Meetings Act regarding public notice and open meetings.
H - 550 (1975)	The Texas State Library need not obtain the consent of the Systems Division of the State Auditor's Office in order to purchase a computer, but it must comply with subsection (a) of article V, section 37 of the General Appropriations Act before making the expenditure. The Library has fully complied with the provisions of Article V, section 37 as soon as the Governor has made the requisite determination pursuant to subsection (a), since subsection (b) therein is invalid. The rider to the Library and Historical Commission appropriation does not apply to funds received by the Texas State Library which are solely federal in origin.
ORD - 100 (1975)	Information which would reveal the identity of a library patron in connection with the object of his or her attention is exempted from disclosure by section 3(a)(1) as information deemed confidential by constitutional law. However, we do not believe that this constitutional protection extends beyond the identification of an individual patron with the object of his or her attention. Thus, we do not believe the fact that a person has used the library, owes or has paid a fine is confidential information.
H - 689 (1975)	System operation grants and incentive grants can be awarded to community libraries where the proper, prerequisite circumstances exist.
H - 690 (1975)	The Library and Historical Commission may reject the initial and any subsequent annual plan submitted by a major resource center. When there has been a rejection of a submitted plan, the Commission may revoke the library's status as a major resource center or withhold funds from the library until the plan is acceptably redrawn. Libraries lying within a system where the plan by the major resource center is rejected, may receive direct grants from the Commission or may be transferred to other systems or a new major resource center may be designated.
H - 725 (1975)	The county law library fee provided by Article 1702i may be taxed as costs, within the meaning of Article 1702i, in all probate proceedings except an action brought for the purpose of confining a person of unsound mind or a habitual drunkard.

H - 917 (1976)	Non-current personnel files transferred to the State Archives for permanent preservation retain the same status as they had before transfer under the Texas Open Records Act, Article 6252-17a and are public except insofar as disclosure would constitute a clearly unwarranted invasion of personal privacy. The right of privacy is personal to the individual and lapses upon his death, rendering his personnel file public except insofar as its disclosure would constitute a clearly unwarranted invasion of the personal privacy of living individuals.
H - 947 (1977)	Article 5, section 3 of the 1973 Appropriations Act did not authorize the transfer of General Revenue Funds to the Department of Public Welfare's Commodity Distribution Fund. Such a transfer may be made pursuant to the requirements of the Retirement System where the transferred funds are used to pay the State's contributions to OASI, retirement and insurance for employees paid from appropriations from the General Fund. [*Note: this Opinion overrules Opinion M-1173 where they conflict.]*
H - 1041 (1977)	State agencies may not refuse to employ a qualified handicapped person on the basis of his handicap. A handicapped employee who utilizes a private automobile and driver on state business is limited to sixteen cents per mile reimbursement. State agencies do not presently have authority to develop a special system of reimbursement for travel by handicapped employees; under current law the system is provided by the Comptroller under Article 6823a and the General Appropriations Acts.
H - 1062 (1977)	The County Law Library Fund established by Article 1702h may not be used for the construction or general renovation of a county law library building.
H - 1246 (1978)	A county may maintain branches of its law library in various locations within the county for the convenience of litigants, and may loan law library materials to other libraries servicing such litigants, so long as a complete law library is operated in a place at the county seat convenient and accessible to the judges of the county as well as to litigants.
H - 1305 (1978)	Professional librarians at the University of Texas, as state employees are entitled only to the vacation leave and holidays provided by the Appropriations Act.
MW - 9 (1979)	Under Article 1792h, the County Law Library Fund may be expended only for library purposes and for the needs of judges and litigants. The fund may not be used to buy books [already] owned by the county [which had been purchased with general funds].
MW - 163 (1980)	The Secretary of State should as a general matter charge the fees set by statute for furnishing copies of documents in this office rather than using the fee schedule prepared by the Board of Control pursuant to the Open Records Act. Article 3913, V.T.C.S., establishes the fees for certified copies of documents. [*Refer to Opinion for other comments.*]

MW - 211 (1980)	Article 5441d, V.T.C.S., requires the Records Preservation Officer described therein to store at least one copy or "preservation duplicate" of any record determined to be "essential" by the originating agency.
ORD - 259 (1980)	It is therefore our decision that the city of Port Neches need not disclose a pledge agreement relating to a gift from a private donor until the entire amount of the gift is paid, or not later than February 1, 1981. When full payment has been tendered, the city should disclose the requested information.
MW - 323 (1981)	Article V, section 4 of the current General Appropriations Act does not prohibit an agency from publishing, in its monthly newsletter, stories which contain neutral, factual reports of the formal votes of members of the legislature and/or verbal comments which may be made by legislators in open forum. As a general rule, article V, section 5 does not prohibit an agency from publishing the name(s) of agency officials or employees in its newsletter for attribution or to facilitate the reader's understanding of a story. That section does embrace the use of legislators' names in print. Article V, section 66(c) applies to units of government which publish periodicals on a monthly basis.
MW - 399 (1981)	Dallas County Law Library funds may be used to implement a computer information system.
JM - 33 (1983)	The legislature may not, consistent with article I, sections 3a and 4, of the Texas Constitution, require consideration to be given to matters of sex, race, color, creed, or national origin in making appointments to the State Library and Archives Commission, but is not prohibited from requiring that consideration be given to geographical distribution.
JM - 183 (1984)	An advisory council to a major resource system of libraries is not a "governmental body" for purposes of the Open Meetings Act, and is therefore not subject to its provisions.
JM - 229 (1984)	Exceptions 3(a)(1) and 3(a)(2) of the Texas Open Records Act, article 6252-17a, V.T.C.S., apply to some of the information found in the medical records of the personnel files of the Texas National Guard for the years 1903-1913. Absent express or necessarily implied authority to open confidential information to the public, a custodian of public records may not adopt a policy in contravention of a third party's right of privacy. Nevertheless, the custodian may, after a significant number of years, reasonably presume that the privacy interest protected by sections 3(a)(1) and 3(a)(2) has lapsed because of the death of the protected person. The confidentiality accorded to information in medical records by section 5.08 of article 4495b in connection with the statutory law aspect of section 3(a)(1) does not lapse upon the death of the protected person. Unless required by other law to retain them, a custodian of public records has discretion over whether to preserve non-current records of the sort in question.
JM - 252 (1984)	Article 5436a, V.T.C.S., does not authorize the State Library and Archives Commission to make cash grants to county and municipal libraries exclusively from general revenue funds.

JM - 256 (1984)	Article 5435, V.T.C.S., does not authorize the Texas State Library and Archives Commission to transfer federal funds to state eleemosynary institutions for library services.
JM - 725 (1987)	A county officer, department or institution may purchase its own supplies subject to the limitations imposed by section 3 of article 2368a.5, V.T.C.S., and subject to commissioners court approval. Before a county may purchase one or more items under a contract that will require an expenditure exceeding $5,000, the commissioners court must comply with the competitive bidding requirements of this act. The $5,000 limitation applies to purchases by the county from the same supplier. Section 3 prohibits the intentional circumvention of the $5,000 limitation by separate, sequential and/or component purchases by the same county officers, departments, or institutions.
JM - 921 (1988)	Regional library systems established pursuant to the Library Systems Act may have as members only public libraries as defined in section 441.122(9), (12) of the Government Code. Regional library systems may contract with non-public libraries for the purchase or sale of specialized resources and services. Gov't Code, §441.128(d).
JM - 1013 (1989)	Records created or received by the governor's office in carrying out its statutory duties fall within the definition of "public records" in section 441.031(5) of the Texas Government Code and the definition of "public records" in section 2(2) of the Texas Open Records Act, article 6252-17a, V.T.C.S. Such records also constitute "governmental records" within the meaning of sections 37.01(1)(A) and 37.10(a)(3) of the Texas Penal Code. Section 37.10(a)(3) prohibits, among other things, the intentional, unauthorized removal of governmental records. Whether the removal of specific gubernatorial records from the custody of the state at the end of a gubernatorial administration violates section 37.10 depends on proof of the elements of the criminal offense described in section 37.10. Similarly, violation of section 12 of the Open Records Act, which prohibits the unauthorized removal of public records, depends on the facts in a given case. Section 441.002(g)(8) of the Government Code authorizes the Texas State Library and Archives Commission to demand physical custody of public records that a state official has determined are not in current use. Section 441.002(i) provides that the attorney general shall resolve disputes regarding the proper custody of records subject to section 441.002(g)(8).
ORD - 489 (1988)	Section 3(a)(1) of the Texas Open Records Act, article 6252-17a, V.T.C.S., does not protect from required disclosure the Texas Department of Highways and Public Transportation's *Texas Highways* magazine subscriber mailing list, either for recipients or for non-recipients. No statute expressly authorizes the department to charge more for its subscriber list than the "actual costs" authorized in section 9 of the Open Records Act.

JM - 1095 (1989) It was within the power of the City of Seguin and the County of Guadalupe in 1975 to revise and ratify a pre-existing 1964 agreement between them regarding library services. Even if the original 1964 agreement between them was originally invalid as ultra vires, ratification in 1975 was effective because the Interlocal Cooperation Act authorizing such agreements had become law. After such ratification, the agreement was not subject to unilateral rescission and cancellation by the county.